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Please note: All entries below are to be made by
Information Services Centre staff only.

ADA2004/406097
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KEY FUNCTION DESCRIPTOR (38)

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NOMINAL DESCRIPTOR (38)

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GEOGRAPHICAL DESCRIPTOR (20)

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SUBJECT DESCRIPTORS (25) (maximum 3)

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83/631

FILE NUMBER

MAXIMUM 98 FOLIOS PER FILE

ACTION RECORD

RELATED FILES

THE TREASURY

THIS PART CLOSED

FOR LATER PAPERS SEE FILE NO: 1387 631 PTD.

ACTION RECORD

REPORT OF THE WORKING GROUP OF OFFICIALS
ESTABLISHED TO REVIEW CRITERIA
FOR THE ISSUING OF BANKERS' OPINIONS

March 1986

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United States and Japan
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Bank

REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO
REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

INTRODUCTION

In its Final Report, the Royal Commission of Inquiry into the Activities of the Nugan Hand Group (Stewart Commission) made a number of policy recommendations including Recommendation 11.8, namely:

'That a committee be set up to liaise with appropriate professional bodies, such as the Australian Bankers' Association, with a view to establishing criteria to be followed by banks in respect of the issuing of opinions concerning their clients' financial standing and worth which they have reason to suspect will be relied upon in that regard by those requesting such opinions or those to whom such opinions are to be, or are likely to be, directed.'

2. At its meeting on 25 July 1985, the Officials Committee on Law Enforcement agreed to the establishment of an informal working group of officials from Treasury, the Reserve Bank and Attorney-General's Department to consider this recommendation. The Reserve Bank subsequently consulted with the Australian Bankers' Association on the matter and information was collated by Treasury and Attorney-General's Department on the current legal standing of, and practice with, issuing bankers opinions in Australia and other countries.

DEFINITION

3. As the term implies, banker's opinions are essentially references or opinions provided by banks, to other banks, on the financial standing and worth of their clients. Such opinions are normally expressed in general terms and are based on a knowledgeable assessment of the client's financial standing and history.

BACKGROUND TO MR JUSTICE STEWART'S RECOMMENDATION

4. The concerns that led the Stewart Commission to focus on bankers' opinions arose from the apparent ability of the Nugan Hand Group to influence the issue of favourable opinions on its financial standing and the subsequent very effective use made of those opinions in expanding the Group's activities, particularly in South East Asia.

5. Of particular concern to the Stewart Commission was its finding that, through a process of negotiation between the principals of the Nugan Hand Group and the branch Manager of the bank with whom it dealt, the Group was able to inject into the bank's 'opinion', selected balance sheet information that had essentially been contrived to give an impression of a strongly expanding asset base. At the same time, the Stewart Commission found that the Nugan Hand Group was also able to achieve, through a series of suggested drafting amendments, the omission of other essential information, such

profit performance, and to have incorporated information on the activities of its overseas affiliates which did not deal directly with the bank giving the opinion and on which the bank was not therefore in a position to make any assessment.

CURRENT PRACTICE IN ISSUING BANKERS OPINIONS IN AUSTRALIA

6. The Australian Bankers' Association (ABA) has advised that while there is no formal code within the banking industry under which opinions are sought and given, similar standards and conventions are observed by all banks. In essence, the opinion process in Australia amounts to an exchange of information on an inter-bank basis, opinions being sought by banks on behalf of customers. Banks do not respond to requests for opinions concerning their customers from third parties.

7. Information disclosed in response to requests for opinions is provided on a confidential basis and a 'without responsibility' disclaimer. Nevertheless, because of the important principles involved, opinions are authorised only by senior bank staff.

8. As indicated earlier, opinions are based on information that is available to the bank directly by way of its dealings with the customer and, where appropriate, publicly available factual information. They are expressed in general terms and, reflecting a bank's obligation to secrecy in its dealings with clients, specific details such as account balances, borrowing arrangements and security held are not divulged.

CURRENT LEGAL POSITION IN ISSUING OPINIONS IN AUSTRALIA

9. Notwithstanding the fact that bankers' opinions are issued with a disclaimer of responsibility, there is a considerable body of case law dealing with the provision of information and advice and it is well established that bankers are under a duty of care to ensure that information provided in opinions is factual and given without negligence. While there would appear to be numerous precedents in case law, two major Australian cases, in particular, have resulted in judgements being given against banks for being negligent in failing to exercise reasonable care and skill in giving an opinion or because the opinion was false or fraudulent, or given recklessly without regard to the truth.

CONSIDERATION OF THE ISSUES

10. In considering the concerns raised by the Stewart Commission, the Working Group first acknowledges the Commission's observation that the circumstances whereby a managing director of an alleged merchant bank was, in effect, able to prepare his own bank reference were extraordinary, particularly given the clear, well established legal obligation on bankers to exercise a duty of care in issuing opinions on their clients.

11. The Working Group nevertheless considers it is particularly relevant that obtaining favourable opinions on their activities was but one part in a chain of deception and fraud perpetrated by the principals of the Nugan Hand Group. As noted by the Commission, the first step in this chain was the preparation of a set of accounts which misrepresented the true financial position of Nugan Hand Ltd (particularly in conveying a false impression of a rapidly expanding asset base). The second step was to obtain the cooperation of the Nugan Hand Group's auditors in certifying these accounts. It was largely on the basis of those certified (but false) accounts that favourable opinions on Nugan Hand Ltd's activities were able to be elicited from the Group's bank, the Pitt and Hunter Street branch of the ANZ Group.

OPTIONS

12. In considering a possible Government response to the Stewart Commission's recommendation there would appear to be essentially two options:

- a) Accept the thrust of the Commission's recommendation and seek to establish, either by legislation or voluntary cooperation, a set of guidelines to be followed by banks in issuing opinions on their clients; or
- b) continue to rely on the internal standards and conventions currently followed by banks in issuing opinions against the background that:

- . the circumstances under which the Nugan Hand Group were able to obtain favourable opinions on their activities were extraordinary; and
- . the 'duty of care doctrine' already provides considerable legal sanction against negligence in the issue of opinions by banks on their clients.

13. Option (a) has a possible advantage in that it could provide for some standardisation of the nature and detail of information included in bankers' opinions and, in particular, could go some way to meeting the specific concern of the Commission that only selective (ie favourable) balance sheet information was included in the ANZ's reference on Nugan Hand Ltd while other more important information, such as the Group's profitability, was excluded. That concern notwithstanding, the fact remains that the abovementioned first two links in the chain of fraud and deception perpetrated by the Nugan Hand Group were crucial to favourable opinions being obtained. Since those two links were clearly beyond the purview of information that could reasonably be expected to be subject to verification by any bank, it is extremely doubtful whether any prescribed guidelines would have materially altered the nature of the bank's opinion in this instance.

14. As indicated earlier, the essential basis for issuing opinions is the bank's knowledge of the manner in which the client has conducted its accounts and the clients reliability in meeting its commitments to the bank. From the information available, it would seem that the Nugan Hand Group carefully orchestrated its dealings with the branch of the ANZ with whom it dealt to ensure an impression of reliability and soundness on both counts.

15. Moreover, as clearly exemplified by the examples in the Commission's Report of opinions issued by the ANZ and others on the Group's activities (reproduced at Attachment B), the detail of information included varies considerably and is essentially dictated by the nature of the enquiry itself. Indeed the ABA have advised that the vast majority of opinions are given orally and there is a preference for that form of conveyance.

16. Against that background, the Working Group concludes that implementation of formal guidelines to be followed by banks in issuing opinions is neither practicable or necessary in meeting the concerns of the Stewart Commission. Banks already have in place quite stringent guidelines for the issue of such opinions and the 'duty of care' doctrine provides considerable legal sanction in ensuring they are adhered to. Furthermore, the Working Group notes that the Commission's other recommendations directed to the first two links in the chain of events mentioned above, particularly

Recommendation 11.7 concerning the scope and duty of auditors would, if effectively met, go a long way to ensuring that the circumstances giving rise to its concerns regarding bankers' opinions do not reoccur.

17. The Working Group also notes that the issuing of bankers' opinions is not a matter that appears to be subject to any governmental direction in other countries. A summary of practices in issuing bankers' opinions and their legal standing in the UK, US and Japan is provided at Attachment C.

18. The Working Group recognises, however, that there were several shortcomings with aspects of the opinions issued by the ANZ on Nugan Hand Ltd identified by the Commission that should have been readily apparent to the bank since it would seem from the evidence available that they went beyond the bank's own criteria and guidelines. The Working Group considers therefore that these shortcomings identified by the Commission should be brought formally to the attention of banks with a view to seeking their assurances of greater vigilance in avoiding future problems.

RECOMMENDATIONS

19. The Working Group considers that the implementation of formal guidelines to be adhered to by banks in the issuing of opinions on the financial standing of their clients is

neither necessary or practicable in addressing the concerns raised by the Stewart Royal Commission. It nevertheless recommends that the concerns of the Commission be formally brought to the attention of banks, by way of the attached draft letter from the Governor of the Reserve Bank, with a view to seeking their assurances of greater vigilance in avoiding the shortcomings identified in future.

The Treasury
Attorney-General's Department
Reserve Bank of Australia

PRACTICES IN SOME OTHER COUNTRIES

(i) UNITED KINGDOM

Legal Standing

There is no British statute law which relates directly to bankers' opinions, and no recent case law. Banks distinguish themselves from credit reference agencies (which are subject to the provisions of the Consumer Credit Act), in that the latter obtain information about other parties in order to provide it to third parties.

Current Practice

2. The practice followed in issuing bankers' opinions in the UK is, as might be expected, essentially the same as that in Australia. In essence, the clearing banks issue standing instructions to their branch managers about preparing bankers' opinions. These instructions indicate whose requests for opinions are to be responded to, and how to respond. Under these instructions, bankers' opinions are normally issued by a branch manager on the same day as the request is received, and on the basis of the information he

has no hand about the running of the client's account and his knowledge of the client's business.

(ii) UNITED STATES

Legal Standing

3. There is no legislation specifically relating to the issue of bankers' opinions and neither the US Treasury nor the Federal Reserve Board play any role in the oversighting of the practice. The involvement of the authorities in the use of opinions appears solely related to opinions/references between governmental instrumentalities.

Current Practice

4. It is difficult to assess the role of bankers' opinions in the United States given the vast number and variety of financial institutions. Major banking houses do provide references for valued clients but these are tempered by the knowledge that legal recourse may be taken for any damages resulting from a misleading reference. In essence, the issue of bankers' opinions/references appears to be solely a matter for individual institutions to determine and there may not even be any informal guidelines governing their use.

(iii) JAPAN

Legal Standing

5. There are no specific laws or regulations (for instance, in the Banking Law), governing either, in the first instance, the terms in which bankers' opinions are given or secondly the nature of the legal liability that might subsequently arise. Any damages or compensation that might be sought would be a matter of contract law.

Current Practice

6. It would appear that the issuing of bankers' opinions is not a practice extensively followed in Japan. In fact, general policy seems to be for banks to withhold information from their competitors about the financial standing of their customers, especially information pertaining to a customer's overall position. This policy has been adopted to protect their established clientele and business, an attitude that has been reinforced in recent years because of the declining demand for banking loans as a result of financial deregulation in Japan and the growing trend for companies to fund themselves directly from the market. On the very rare occasions that a bank would write a recommendation about one of its clients to a third party, this would be dictated by

exremely unusual circumstances and where it was judged absolutely necessary in order to secure joint funding of a particular activity.

7. There are, however, circumstances in which information exchanges occur informally between banks. Although confirmed in writing the exchange is essentially conducted by telephone and is governed by certain conventions which the banks accept as having no legal force. These are that the bank giving the information accepts no responsibilities, that the receiving bank undertakes to observe the confidentiality of the information and that the requested bank is not obliged to furnish all the information sought.

The Treasurer

~~DRAFT OF 22.10.85~~
REDRAFT

Mr. Beekun,

This draft is to be lodged tomorrow
and Sirros proposes that the 10 day rule be
extended to - You may wish to add to ~~the~~ ^{consider}

CABINET SUBMISSION NO 3366
GOVERNMENT'S RESPONSE TO FINAL
REPORT OF STEWART ROYAL COMMISSION
OF INQUIRY INTO THE ACTIVITIES OF
THE NUGAN HAND GROUP

SPECIAL MINISTER

OF STATE

~~The drafting of para 6 -~~
31/10

The Special Minister of State is seeking Cabinet's approval to proposed deletions from the text of the abovementioned Report that is to be released publicly and endorsement of the text of a statement the Minister proposes to make to Parliament ~~during the current sittings~~ on the Government's response to the Report.

BACKGROUND

2. The Commission was established in 1983 to investigate the alleged involvement of the Nugan Hand Group in drug trafficking, arms dealing and dealings with the CIA and alleged breaches by the Group of other Commonwealth and State laws. While the Commission's final report concludes that there is no evidence to support the allegations involving drugs, arms dealing and CIA involvement, it did find considerable evidence of breaches of State laws (principally provisions of the Crimes Act and company laws) and of

X Commonwealth laws in respect of taxation, the foreign
exchange regulations as they then applied and the Royal
Commissions Act.

X 3. The Royal Commission did not make any recommendations
concerning the prosecution of alleged offences under
Commonwealth and State laws but indicated that information in
those respects has ^d been passed to the relevant law
enforcement authorities. *for further investigation and possible prosecution.* It did, however, make a number of *action.*
policy recommendations in respect of:-

- . proposed amendments to the Royal Commissions Act;
- . access to banking records in the Cayman Islands;
- . the enactment of legislation to provide for the
specification of the duties of auditors and for a review,
by the NCSC, of the Companies Code; and

the establishment of a Committee to review criteria for the issuing of "bankers' opinions" by banks on the standing and worth of their clients.

4. The Commission's recommendation regarding access to banking records in the Cayman Islands is already being pursued in other contexts (a similar recommendation was made, for example, by the Costigan Royal Commission). The only on-going matter arising from the Commission's recommendations which is of direct relevance to ~~your~~ ^{the Treasury's} portfolio interests therefore, concerns bankers' opinion^s. The Commission's concern regarding this matter arose from the alleged manner in which the Nugan Hand Group was able, through a series of negotiations with a Branch Manager (now deceased) of the ANZ Bank through whom ~~they~~ ^{it} dealt, to influence the issue of favourable opinions on its financial standing and the subsequent very effective use made of those opinions in expanding the Group's activities, particularly in South East Asia.

5. At a meeting of the Officials' Committee on Law Enforcement on 25 July 1985, a small informal Working Group comprising officials of Treasury, the Reserve Bank and Attorney-General's Department was established to examine this matter. We are currently assembling the relevant background information covering the use of bankers' opinions and intend submitting the Working Group's recommendations on the matter to ~~you as soon as possible.~~ ^{the Treasury in due course}

to you as soon as possible.

COMMENT

6. The proposed deletions ^{from} to the publicly released Report essentially relate to a number of individuals named throughout the text who are currently being, or will be, investigated by law enforcement agencies. In line with the Commission's recommendations, it is also proposed that Part 10 of the Report, which identifies specific alleged breaches of law, be deleted. With one exception, ~~of which you are already aware,~~ the issues raised are essentially of a law enforcement nature. ^{PMA} We have ~~also~~ been consulted in the preparation of the text of the Minister's proposed statement and have no objections to it.

RMB?

RECOMMENDATION

8. It is recommended that you raise no objections to the proposed deletions from the Report and the text of the Minister's proposed statement.

This exception relates to allegations concerning a senior private bank executive which the Governor discussed with you some time ago. The Governor is taking various appropriate steps in regard to the matter consistent with the Commonwealth's banking responsibilities.

110
1988

8. A copy of this minute has been sent to the Minister
Assisting the Treasurer for his information.

R.M. Beetham

First Assistant Secretary

November
~~October~~, 1985

Copies to:

The Secretary

Mr Moore

Dr Higgins

Mr Evans

Mr Whitelaw

Mr McBurney

Taxation Office



1 November 1985.

Mr. J. S. Jepsen.

With Compliments

John Eyers letter of 28 October 1985, about bankers' opinions, refers.

Minister (Treasury)

Australia House.

Strand, London WC2B 4LA

E.C. Woods Principal Solicitor
D.T. Hayes Deputy Principal Solicitor
J.A. Burfoot Barrister
N. Cave Solicitor
J.M. Miller Solicitor
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A.B. Laidlaw Solicitor
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Our reference Your reference
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J.S. Eyers Esq.,
Treasury Branch,
Australian High Commission,
Strand,
London,
WC2B 4LA.

28 October 1985

Dear Mr. Eyers,

Bankers' Opinions

Further to our recent telephone conversation, I am enclosing as promised extracts from:

1. The Report of the Committee on Privacy (the Younger Report).
2. The Report of the Committee on Data Protection (the Lindop Report).

You will see from the evidence supplied by the British Bankers Association that the Bankers' Opinion system in the United Kingdom has evolved historically and is based upon case law. Whilst it might not always be fully acceptable, it has nevertheless stood the test of time and bankers are reluctant to vary the accepted practice.

Yours sincerely,

W.F. Egton
Manager (Legislation)

Copy provided to Leg, ALG's 29/11/85.

Banking

Evidence

14.01. We received submissions from, among others, the British Bankers' Association, the Bank of England, credit card companies and individual banking institutions. During our trip to Sweden we visited the Skandinaviska Enskilda Banken (Scandinavian Bank Ltd) and the Swedish Bankers' Association.

The Younger Committee Report

14.02. In a short chapter on this subject, the Younger Committee commented on three aspects of banking: the provision of bank references, the disclosure of information to third parties, and the computerisation of banking information systems. As we understand that the position recorded in 1972 has been overtaken by events we shall not rehearse the Younger Committee's views here.

14.03. Some of the developments previously envisaged have been slower to materialise than had been predicted. We have already reported that the growth of computerisation in the credit reference industry has been less rapid than expected, and the current view of the Inter-Bank Research Organisation (whose present Director is one of our members) is that a fully cashless society is neither possible nor desirable. Nevertheless, computers are peculiarly well-suited to the money-transmission and accounting activities of the banks, and we are impressed by the very rapid growth there has been in the use of computers for banking purposes: figures provided by the National Computing Centre show that, as a proportion of all personal information applications on their Index, those devoted to banking activities have grown from 3% in June 1975 to 12.5% in December 1977 (see Table 2 in Chapter 22).

The British Bankers' Association (BBA)

14.04. The principal submission in this field was that of the British Bankers' Association (BBA), which has some 300 members, and with whose views the Bank of England was associated. The BBA told us that the customer's right of privacy and confidentiality was enshrined in normal banking practice, but urged that there should be no restrictions on the use of information from published sources. While agreeing that the disclosure of information to third parties should usually require the individual's prior knowledge and consent they reiterated the view, which had been put to the Younger Committee by the banks, that prior knowledge and consent was not always possible or advisable in connection with references obtained from individual referees or reference agencies. We understand that subjective analyses and judgments are not often held on computer.

14.05. The BBA's evidence was one of the most constructive submissions we received from a user body. They were concerned that the legislation should be applied flexibly so as to fit the different circumstances of users. The Association, which tentatively preferred the licensing approach to the alternative advisory model set out in the White Paper, suggested that all parts of a computerised information system, and not merely those parts where a computer was employed, should be regulated, and drew our attention to the importance of preventing transborder avoidance of data protection.

14.06. The BBA submission was expressed in general terms, because they (like some other witnesses) had been hoping to engage in more detailed discussions with us when our specific proposals had been drafted. We envisage (paragraph 19.29) that such discussions would be a matter for the DPA, which would be required to consult interested user bodies such as the BBA.

A major credit card company

14.07. We received evidence from a major credit card company which also in some respects acts as a computer bureau. As with the BBA, their approach to the legislation was a positive one. The company made the usual reference to the need for flexibility, the need to take account of user costs in implementing and timing the legislation, and the need to include manual systems so as to avoid increasing the relative cost of using computers. The company said that it was already concerned with stringent security precautions, and urged that there should be no restrictions on the use made of personal information from published sources. They thought that there should be licensing and a Code of Practice, that the transfer of information by third parties should require the individual's prior knowledge and consent, and that users should be required to take reasonable steps to ensure the accuracy of data and the identity of data subjects.

A major clearing bank

14.08. One of the joint stock banks from whom we had evidence has several million current account customers and provides each of them with a statement at least once every six months. Branches of the bank have on-line access via terminals to a central computer, but each branch can access only information relating to its own customers. The bank's policy is to disclose information to third parties only under a legal requirement or with the customer's permission. The bank told us that its policy was to retain records for six to ten years. Because the information held on computer is comprehensive, additional printing costs would be a major item if the bank had to supply all customers with an annual printout of the whole record. Account statements (the issuing of which is a completely automated process) contain only the minimal information necessary to keep the customer up to date with the progress of his account. The information is limited in this way in order to preserve privacy and security. This is not the only evidence we have received that the large-scale mailing of printouts to data subjects would itself pose a serious data protection hazard. The bank has no objection, in principle, to allowing the subject to see a copy of his record on request, but would strongly oppose any suggestion that it should disclose judgmental information to the data subject.

Stock registration systems

14.09. The Bank of England was associated with the general evidence submitted by the BBA, but wrote to us separately on the specific question of computerised stock registration systems. Such systems exist to facilitate the orderly, accurate and rapid processing of stock transactions and the maintenance of an up-to-date register. Many banks act as registrars in this field, the Bank of England being the registrar for government stocks and those of other public sector borrowing bodies such as overseas governments and local authorities.

14.10. The Bank urged that registrars should not be required to notify stockholders named on registers of account details (eg to notify all transferees of stocks registered into their names), although there was no objection to supplying that information on request (indeed, this was current practice). Further, registrars should not be required to obtain the stockholder's consent before supplying information to his agent (usually an accountant, solicitor or bank): great care was taken in disclosing information to agents, and the information was usually limited to confirmation of facts presented by the agents themselves. Such requirements would defeat the purpose of the Stock Transfer Act 1963 which had been to simplify registration procedures and minimise the involvement of stockholders in formalities.

Existing legislation

14.11. There is a wide range of existing legislation under which banks may be required, in various circumstances, to disclose to third parties information about the affairs of their customers or clients (a list of the relevant statutory provisions is given in Appendix 8). Persons to whom banks may be required to furnish information or copies of documents relating to individuals include Inspectors of Taxes, the Board of Inland Revenue, Customs and Excise officials, the Director General of Fair Trading, inspectors of the Department of Trade, the Department of Trade itself, the Charity Commissioners, the Director of Public Prosecutions and (on a court order) parties to certain legal proceedings. In each of these cases, Parliament has decided that, in particular circumstances, an exception to the principle of banking confidentiality must be made in the public interest. Decisions of this kind incorporated in legislation, will need to be taken into account when data protection measures are formulated.

Evidence from Sweden

14.12. We visited the Skandinaviska Enskilda Banken (Scandinavian Bank Ltd), the largest private bank in Sweden (having 2.5 million accounts) and met representatives of the Swedish Bankers' Association. Like the UK clearing banks, the Scandinavian Bank has a central data base linked by remote terminals to branches throughout Sweden. In the Scandinavian Bank cheques are retained in the drawer's branch and filed under the account number, cheque number and amount: the Head Office has transmitted to it only the data which is printed on the statement sent to the customer. We were told that "profile" construction was therefore not possible in the Swedish banking system, because the central computer system was not allowed access to cheque payment details held at the local branches.

14.13. The Swedish Bankers' Association told us that, when the Swedish Data Act was passed in 1973, the banks had at first anticipated being swamped by requests from individuals to have access to their record but these fears had proved to be unfounded: in 2½ years only 200 customers had asked to see copies of their record. This was partly because very little of the recorded information was omitted from normal statements; examples of the kinds of things omitted from statements are interest rate, overdraft facilities, securities for loans given, repayment statistics, and number of times overdrawn. Information is never disclosed over the telephone.

14.14. The Swedish banks provided an example of a phenomenon which occurred because the regulations covered only computerised applications. They were refused permission by the Data Inspection Board (DIB) to compile a computer file containing details of persons known to have committed crimes against banking institutions; in consequence they now hold this information on a manual card index, which is outside the DIB's jurisdiction. Furthermore, we understand that they are permitted to flag a computer record to indicate the existence of a manual record. It may be thought that anomalies of this kind are likely to accumulate over time under a law restricted to computers, a point we have already made in our discussion of this matter in Chapter 2.

14.15. An interesting point which emerged from our Swedish enquiries is that the use of a maiden name by a woman bank customer is not allowed, as it is in the UK. If anyone tries to open an account under a different name, this will be spotted because all Swedes have a national identity number, which the banks use. It is precisely this sort of situation which opponents of the Universal Personal Identifier in this country have in mind, a point we make in our discussion of this matter in Chapter 29.

14.16. Perhaps the most important point to emerge from the evidence we acquired about banking activity in Sweden is the value of allowing users or groups of users to be represented by an appropriate body in consultations with the DPA about a Code of Practice. The Swedish banks allowed their interests to be represented in discussions with the DIB by their Association, and we envisage that the Code of Practice for banks in this country would similarly be negotiated largely between the DPA and the appropriate banking Associations.

Conclusions

14.17. The Younger Committee commented that the advent of computers in banking did not change the form of the threat to privacy, only the degree. We concur with this proposition and we have pointed out in paragraph 2.12 that data protection is, in principle, as relevant to manual as to computerised information systems.

14.18. The particular significance of the records kept by banks is that they may provide an extensive picture, not only of the individual's financial position and history, but of his way of life in general. This is inevitable since so many aspects of life are directly or indirectly related to financial transactions, and since bank records make it possible to identify the persons and organisations with whom the individual's transactions take place. The effect of computerisation, and of the

growing use of cheques, credit cards and other methods of making payments through the banking system for routine transactions, has been to make the bank customer's account record a potentially more easily retrievable source of sensitive information. In effect, the information about an individual available to his bank could, in principle, provide sufficient material for compiling a dossier about him; although currently, we are told, it is available only to those directly responsible for managing the account. It is this aspect of bank records which makes the protection of the data they contain particularly important.

14.19. There is nothing new about these risks. Our evidence suggests that banking activity poses few of the problems and potential conflicts with data protection which we have identified in other areas. The banks have always treated their customers' affairs as highly confidential and their business does not, by its nature, involve the disclosure of specific information to third parties except for the purpose of accomplishing financial transactions. Furthermore, the banks' practice of providing their customers with regular statements of account means that the principle of subject access is already largely realised—more so, perhaps, than in most other fields. Finally, our evidence has tended to confirm that standards of security (and in particular, of course, physical security) are already high.

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CHAPTER 10

THE BANKS

Evidence

301 We received no complaints about banking practices from members of the public. We received written evidence from the Committee of London Clearing Bankers, which was endorsed by the British Bankers' Association, from the Consumers Association and from *The Guardian*. We took oral evidence from the Committee and *The Guardian*.

302 An obvious source of information about the credit-worthiness or financial commitments of individuals or companies is the bank holding their account and those who seek credit often explicitly authorise a potential grantor of credit to seek information about them from that source. The banks assured us that they considered themselves under a legal obligation not to disclose their customers' affairs without authority and that they were conscious of the importance of confidentiality in the relationship. It is possibly not widely known, however, that it is the practice of banks to give to other banking institutions, in response to enquiries on behalf of their customers, confidential opinions as to the credit-worthiness, reliability and standing of those who bank with them. We were told that such opinions were expressed in conventional and general terms and only to a carefully controlled list of organisations. The banks' view is that, where the customer's express consent is lacking, his consent is implied by the fact of maintaining the account, as the practice is a well-established service available to all customers. In providing this information a bank does not act in the same way as a credit agency, because the information conveyed is the branch manager's personal and confidential opinion on a customer's financial position as assessed by him on the basis of the records of the bank. Unlike banks, credit agencies have no relationship, legal or commercial, with the individuals on whom they report.

303 In 1969 the Consumers Association (CA) conducted an experiment in which a member of their staff asked her bank manager for a "banker's reference" on a colleague, whose bank she named, in connexion with "a proposed obligation of the order of £25 per month". She received a reply that her colleague was "highly respectable, of good standing and may be considered entirely trustworthy in the way of business" for such a commitment. The subject of this report was never told that an enquiry had been made and the CA suggested that if this experience was standard practice anyone could find out a bank's opinion of any of its customers with ease and so breach the traditional confidential relationship.

304 In the December 1971 issue of "Money Which?" CA reported the results of a similar experiment:

"Money Which?" has checked on the system [of bank references] by getting 15 people to ask for bank references on 15 other people—with the latter's

consent—concerning entirely mythical transactions. The 30 people involved all had accounts with the Big Four banks.

All our enquiries were given a reference, and in none of these cases, did the bank manager tell the person being inquired about what was happening.

We also arranged for bank references to be sought on a small number of people who—because of their incomes, job or public position—might perhaps have expected extra privacy. Again, our inquirers got their references, and our top people were not told that references were being given about them—so status does not seem to give you any greater immunity.

Incidentally, most of the people who took part in our test had not realised that inquiries could be made by private individuals, and were surprised that such inquiries could be made without their knowledge."

CA recommend that banks should not give references unless the customer who is the subject of the reference has agreed in writing. The Association thought that this should be easy to arrange at little cost. For example, in formal transactions involving, say, applications for credit, the form could—in the part asking for the bank's name and address—include a tear-off slip giving specific authorisation to the bank to provide a reference.

Bank references

305 The Committee of London Clearing Bankers told us that, provided details of the balance of account or of moneys paid in were not revealed, they saw no objection to the provision of references in the general terms used in the CA experiment. As to the implied consent of a customer to the provision of information, they relied upon the judgment in *Tournier v. National Provincial and Union Bank of England*⁹² to support the view that a reference in such terms was not a breach of the customer-bank relationship. Since the matter had never been tested definitely in the courts, however, the banking world would welcome a clarification of the position.

306 We asked if there would be any objection to notifying a customer when an enquiry was made about his financial standing or even expressly seeking his consent before answering it. We were told that this might damage the relationship between the customer, whether an individual or a company, and the enquirer. It was explained that a bank would be reluctant to say, even in reply to a direct enquiry from a customer, whether or not it had supplied information. If it became the practice to tell customers, the bankers' representatives thought that the number of enquiries would certainly diminish.

307 We doubt whether there is any serious or widespread abuse of the bank reference system, but we do not believe that the practice is as well-known and accepted among customers, particularly individuals, as the banks assert. Nor are we convinced that it would be undesirable for a customer to know what enquiries had been made about him and what replies had been given. On the contrary, we think the present situation is undesirable. We recommend that the banks should make clear to all customers, existing or prospective, the existence and manner of operation of their reference system, and give them the opportunity either to grant a standing authority for the provision of references or to require the bank to seek their consent on every occasion.

⁹² 1923 KB 461.

Confidentiality of accounts

308 The evidence of *The Guardian* about bank accounts was rather more disturbing than that of the Consumers Association. On 11 May 1971 the newspaper published a front page news item headlined "Commercial Spies Tap State Records" which revealed the ease with which confidential personal information had been obtained from various sources, mainly in the public sector, by two private enquiry agencies. As far as banks were concerned, a "detailed dossier" on the news editor was compiled and supplied within 48 hours. It included among other things information from two banks obtained over the telephone giving an account number, the balance in hand, the amount of monthly salary and timing of its payment, the name of the news editor's husband and a number of other details.

309 We quoted this evidence to the Committee of London Clearing Bankers, who said they found it difficult to believe that any bank employee would answer questions about salary over the telephone. It was contrary to all instructions given by the banks to their staff, which were "hammered home at every instructional course which every member of the staff attends at bank training centres". They added: "It is one of the first principles that any member of the staff realises, absolute secrecy of any information in that branch bank." We were told that enquiries over the telephone were discouraged and that where, in urgent cases, they were accepted steps were taken (such as telephoning back) to ensure that the enquiry emanated from another bank.

310 We were not able to examine the enquiry agents who made these investigations, but what we were told left us in no doubt that information was obtained, possibly by deception, by people who had no right to have it and to whom a bank ought not to have supplied it. We take the view that no security system in this field can be completely foolproof, but we are disturbed by the apparent ease of penetration in this case. We believe that our proposals for control over private detectives (see Chapter 16) will, if implemented, reduce the likelihood of this sort of information being obtained in such a way, but meanwhile we strongly urge the banks to look to the arrangements they have for protecting the details of their clients' accounts in the interest of individual privacy and of public confidence in British banking practice.

Computerisation

311 We have said earlier that a credit-based consumer economy inevitably brings with it a free flow of information about individuals' financial standing (paragraph 267) and it is clear that this free flow has existed between banks for some time. The advent of computers will accelerate it. In an address to the Workshop on the Data Bank Society held in London in November 1970 Mr J H Robertson, Director of the Inter-Bank Research Organisation, predicted that during the next ten, fifteen or twenty years great advances would be made towards what he said was sometimes called, without exaggeration, "the cashless and chequeless society". He gave it as his view that many of the payments today effected in cash or by means of paper instruments would be made automatically by the transfer of payments data between the computers of different organisations, including those of the banking and giro systems. The development of electronic funds transfer on these lines would not, he added, necessarily involve

the use of data banks in the generally accepted sense of the term. It was likely to mean, however, that a comprehensive and—in a technical sense—easily accessible record of the payments made by bank customers (both companies and individuals) would be held on computer file. Mr Robertson went on to forecast the development of a banking data network, which would no doubt be used for information retrieval as well as for transactions. He explained that it could conceivably lead to the exchange of information within linked systems run by statistical organisations, market research agencies and credit rating bureaux. His view was that the development of computerised credit rating services was probably inevitable, a view from which we cannot dissent (see paragraph 277).

312 As we see the matter, the advent of computers does not change the form of the threat to privacy, only the degree. We develop this theme in Chapter 20. Suffice it to say here that the application of computers to the handling of private financial information merely strengthens our recommendation in paragraph 310 that the banks should look to the arrangements they have for safeguarding the confidentiality of their clients' accounts.



10KYO
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AUSTRALIAN EMBASSY,
TOKYO

29 October, 1985

14/11
Mr J. Jeppsen,
Acting Assistant
Secretary,
Financial
Institutions Division,
The Treasury,
CANBERRA.

M. Beaton
M. M. Edwards
Mr. J. L. 6/11

Dear John,

Royal Commission of Inquiry into the Activities
of the Nugan Hand Group : Bankers' Opinion

Thank you for your letter of 4 October on the
above subject.

As far as I can gather, the use of bankers' opinions is not a practice followed in Japan. Rather to the contrary, in fact, the practice seems to be for banks to withhold information from their competitors about the financial standing of their customers, especially information pertaining to a customer's overall position. The banks seem to do this for reasons of protecting their established clientele and business, the more so in recent years because of the declining demand for banking loans as a result of financial deregulation in Japan and the growing world-wide trend for companies to fund themselves directly from the market. This applies to the overseas activities of their customers as well, presumably because (unlike Australian banks in the past) they would see themselves as being in competition with the local banks in the countries concerned.

In the context of this general policy I am told that on very rare occasions - once every five years, apparently - a bank would write a recommendation about one of its clients to a third party. But this would be dictated by extremely unusual circumstances and where it was judged absolutely necessary in order to secure joint funding of a particular activity.

There are circumstances in which information exchanges occur informally between banks. For instance where a bank is assessing a potential customer's profitability and

Copy provided to Mr. Lee, A/4/85, 29/11/85

the company concerned has close business links with another company, the bank will seek information from the other company's bank. Although confirmed in writing the exchange is essentially conducted by phone and is governed by certain conventions which the banks accept as having no legal force. These are that the bank giving the information accepts no responsibilities, that the receiving bank undertakes to observe the confidentiality of the information and that the requested bank is not obliged to furnish all the information sought.

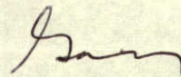
In circumstances also where a client is on the verge of bankruptcy it will happen occasionally that creditor banks will exchange information with a view to deciding whether additional credit should be extended. This occurred recently with the failure of a very large shipping company (Sanko Steamship) and also of a sewing machine company funded by a group of banks, including some with foreign ownership. In the latter case the foreign banks suspended their intended collection of outstanding loans on the (verbal) advice of a Japanese bank but subsequently the company went bankrupt. The foreign banks have announced their intention of taking legal action against Mitsui Bank but the matter is unlikely to reach the courts. In Japan, even when such rare events do occur, an out-of-court settlement is the normal practice.

There are no specific laws or regulations (for instance, in the Banking Law) governing either, in the first instance, the terms in which such advice is to be given or secondly the nature of the legal liability that might subsequently arise, as in the case just quoted. Any damages or compensation are sought as a matter of contract law.

I am not sure how useful is the above information. However, given that bankers' opinions are not an accepted or widespread practice in Japan, I have not responded seriatim to the questions on the second page of your letter but rather given a more general commentary on the Japanese practice.

Best wishes.

Yours sincerely,



(G.R. Potts)
Minister (Financial)

Copy To:

Mr R.B. Wood

Stewart Cab Sub
3366
Lodged on 31/Oct: 175

To be considered Monday 17 Monday



CONFIDENTIAL
AUSTRALIAN HIGH COMMISSION

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174
1
AUSTRALIA HOUSE
STRAND
LONDON WC2R 0ALP
01-438 8000
438 8271

85/179

28 October 1985.

4/11
Dear John,

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE
NUGAN HAND GROUP: BANKERS' OPINIONS

This is in response to your letter of 4 October 1985 asking for inquiries, in parallel to others in Washington and Tokyo, about bankers' opinions.

Let me begin by describing my sources:

- . Mr. Peter Parker, Manager of the Credit Information Office in National Westminster Bank (280 4500);
- . Mr. Frank Eglon, of the Legal Department of Midland Bank (606 9911);
- . Miss M. J. Tomlinson, a Manager in the Banking Supervision Division of the Bank of England (726 6242); and
- . Mr. Karmel, Deputy Secretary of the Committee of London Clearing Banks (238 8866).

Both Tomlinson and Karmel referred to Parker as the expert with long experience, and indeed the most helpful information came from him.

Legal Standing

I obtained guidance on this mainly from Eglon. There is no statute law which relates directly to bankers' opinions, and no recent case law. There was a case in the 1920s - *Tournier v National Provincial Bank* - which drew a line between a bank's duty to treat confidentially a client's affairs and its right to give an opinion of the client to another bank.

Banks distinguish themselves from credit reference agencies (under the Consumer Credit Act), in that the latter obtain information about other parties in order to provide it to third parties. The general principle is that bankers' opinions are based on knowledge already to hand of a client's financial standing and the conduct of the client's account, rather than on inquiries made for the purpose into the client's business.

There is a standard clause in bankers' opinions saying that the information provided is to the best of the bank's knowledge

Copy provided to Mr. Ley, A/gb 29/11

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but disclaiming liability for it. It is presumed that that disclaimer precludes any legal liability for accidentally misleading information; but that a bank might still be held liable for deliberately misleading information (or as Parker suggested, for demonstrable negligence in the preparation of an opinion).

Some further comments by Parker indicate a complication. He said that NatWest practices in regard to issuing opinions had been strengthened recently, including by encouraging managers to make some mention of any doubts they might have about a client, and not to use phrases which lacked meaning. Later on, however, he commented that it remains the practice to phone rather than write in cases of adverse information or misgivings.

Current Practice

Here my information came mainly from Parker. The clearing banks have standing instructions to branch managers about preparing bankers' opinions. They indicate whose requests for opinions are to be responded to, and how to respond. (He agreed to send me a copy of the relevant section of NatWest's book of instructions, on the understanding that it should be treated confidentially.) Bankers' opinions should be issued by a branch manager on the same day as the request is received, and on the basis of the information he has to hand about the running of the client's account and his knowledge of the client's business.

It will frequently happen that a request for a banker's opinion is in the form of a question whether a client is thought suitable to borrow a certain amount on certain terms (or something analogous), and the banker's opinion will then be an answer to that question. Parker pointed out that much of the usefulness of an opinion depends on the precision of the terms in which the opinion is sought, and whether they correspond to what the bank issuing the opinion can be expected to know - as he had recently pointed out to one organisation which had taken on some bad risks and was criticising NatWest's earlier opinions concerning them.

In cases where NatWest's branch managers are asked for opinions about large clients, such as merchant banks, Parker's office can provide advice on preparing the opinions. His office uses several sources, such as the Bankers' Almanac and Yearbook (which typically contains information on corporate structure, a balance-sheet extract, and names of correspondent banks), and information passed from the bank's international department about any contact with the client abroad. Where NatWest has a correspondent relationship with another bank, it keeps a good deal of information which can be drawn on in a banker's opinion; for instance, by asking the correspondent bank for annual balance sheets, and by keeping in touch through visits to its headquarters. But he commented that it can still be difficult to make an assessment of a new merchant bank, or one changing its operations.

Contact with Clients

I asked both Eglon and Parker about the circumstances in which a bank asked to provide an opinion might contact the client

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- 3 -

concerned. Both said this would not be common - as Eglon explained, because the bank would wish to remain quite free to provide opinions about clients without informing them, and because it would not want to get into the practice of basing opinions on special inquiries. However, it could happen if the request was for an opinion including information which the bank would not normally disclose, such as a client's assets and liabilities at the bank: in that case, the client's authorisation for the disclosure would be needed. It could also happen if the question was one on which the bank could not provide an opinion without adding to the information it had to hand, either because it was an odd question or because it was about the general standing of the client. What to do then would be in the discretion of the branch manager (or Parker himself). Parker commented that if he was asked for an opinion on a client's general standing, he would need properly-audited balance sheets - but that even that might not be entirely sufficient.

Direction

It does not appear that the practice of even the major clearing banks has been closely harmonised by any formal process either of supervision by the Bank of England or of discussions among the banks. Miss Tomlinson said the Bank of England made no special coordinating or supervising effort on this subject. She did mention a working group organised by the Committee of London Clearing Banks in the early 1970s which had helped to standardise practices. Parker confirmed this - he took part - but told me that the work did not accomplish much, because of competitiveness among the banks, their differences in internal organisation, and the laboriousness of committee representatives referring matters to others within their own banks.

enclosed. One consequence of this is that guidelines and practice may vary somewhat from bank to bank. I have mentioned Parker's agreement to send the NatWest guidelines. Eglon offered to send some evidence given on behalf of Midland to the Younger Committee, describing that bank's practice. Those two documents may reach the office in time to accompany this as attachments, or else they will be sent on to you under compliment slip. I have warned Tony Cole that you may ask for further inquiries when you have read this letter and those documents.

Kind regards - should be seeing you shortly.

Yours sincerely,

A. S. Cole

for (J. S. Eyers)

who finished this on his last day and so was not here to sign it.

MC.

Mr. J. S. Jepsen,
Acting Assistant Secretary,
Financial Institutions Division,
The Treasury,
Canberra, ACT.

CONFIDENTIAL

FI	Date 29/4/85
Copies:	
Sign: <i>W. Fisk</i>	
Name: <i>W. Fisk</i>	
☐	Collate
☐	Staple
If required, return to:	
(ext)	
Actioned by Office Services:	
Distribution List:	
<i>Mr Key, asfy's</i>	
<i>Depr</i>	

National Westminster Bank PLC 153

Credit Information Office

4th Floor

58 West Smithfield

London EC1A 9DU

Direct Line 01-280

Switchboard 01-280 4444 Telex 8811481, 8811482 and 8811483

With the Manager's compliments

Dear Doris Ayres.

I hope the enclosed will prove helpful.

You may wish to speak to Banking
Information Service @ 10 Lombard Street

London EC3. 626-8486.

Please do not hesitate to let me know if

I can help in any way.

Yes — indeed —

Wm. Parker.

—

THE BANK IS NOT A CREDIT REFERENCE AGENCY WITHIN THE TERMS OF
SECTION 145(8) OF THE CONSUMER CREDIT ACT 1974. SUBJECT TO
THE OBLIGATIONS OF CREDIT REFERENCE AGENCIES UNDER THE ACT,
DISCLOSURE OF THE CONTENT AND SOURCE OF THIS OPINION IS NOT
REQUIRED.

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THIS INFORMATION IS FOR YOUR PRIVATE USE ONLY AND IS GIVEN
IN CONFIDENCE ON THE EXPRESS UNDERSTANDING THAT NEITHER THE
BANK NOR ANY OF ITS OFFICIALS IS TO BE HELD RESPONSIBLE,
AND WHERE THE INFORMATION HAS BEEN OBTAINED FROM ANOTHER BANK
OR INFORMANT, WITHOUT RESPONSIBILITY ON THE PART OF THEMSELVES
OF THEIR OFFICIALS.

Status and Other Confidential Enquiries

Chapter 10

- A Secrecy
- B Status Enquiries
- C List of Parties between whom Status Enquiries may be Passed Direct

D Other Confidential Disclosures

A Secrecy

G10A

Members of the Staff are duty bound to keep secret the affairs and concerns of the Bank, its business transactions with its respective customers and particulars of their accounts.

The only exception to this requirement is where, under the terms of Section G10B, certain limited confidential information may be disclosed to a third party. This is subject always to entirely satisfactory proof of identity of the enquirer whatever the method of approach and, if doubt exists, the delay necessary to enable a proper investigation to be made. If a telephone reply is requested, it should be made to an independently established number.

Information (such as the balance of an account) in response to oral enquiries (either across the Bank's counter or over the telephone) should only be released after having established the identity of the enquirer and, if a third party, his authority to receive the information requested.

Release of information orally is a service that customers expect and establishment of identity should be handled, therefore, with a high degree of sensitivity. If after suitable questioning reasonable doubt remains as to the identity or authority of the enquirer, the information sought should only be divulged by way of a telephone call to an independently established number. If this is impractical, the information should be conveyed in writing as soon as possible. The reasons for the action taken should be explained to enquirers.

Care should be taken in all cases where enquiries purport to come from other Branches or Departments of the Bank. The quoting of current circular numbers cannot be relied upon as a certain means of identification. Unless the identity of the caller can be established beyond doubt, a return call should be made to an independently established number.

Discretion is left with Managers to establish check procedures to be used in their Branches. However, provision by the enquirer of an address and account number alone should not be considered adequate to establish identity.

B Status Enquiries

G10B

B1 PARTIES BETWEEN WHOM STATUS ENQUIRIES MAY BE PASSED DIRECT

G10B1

(a) Other customers of the Branch

(b) United Kingdom financial institutions listed in Section G10C.

B2 ANSWERING STATUS ENQUIRIES

G10B2

B2A Method *See Cir DB177-1984* G10B2A

(i) Enquiries from another customer of the Branch, from another Branch or from a financial institution domiciled in the United Kingdom, the name of which appears in the list in Section G10C, may be answered direct on form NWB41 (see Section G10B2B).

(ii) Enquiries from a financial institution domiciled outside the United Kingdom must be replied to on form NWB41 via Credit Information Office, accompanied by a copy of the original enquiry.

(iii) Enquiries from United Kingdom financial institutions not named in the list in Section G10C must be replied to on form NWB41 via Credit Information Office, accompanied by a copy of the original enquiry.

(iv) Any other enquirer must be asked to enquire through his bankers.

(v) Oral replies should be repeated to ensure accuracy, finishing with the disclaimers given in Section G10B2B. A written confirmation on form NWB41 should be sent forthwith.

(vi) When a number of enquiries are received within a short period, without a satisfactory background explanation from the customer, Fraud Office should be advised. The risk of fraud is high if these circumstances arise with a new business customer.

B2B Form NWB41 and Disclaimers

G10B2B

Replies should be on form NWB41 and in original only. When this is not possible

must be taken to ensure that the reply, be it written or oral, ends with the following disclaimers:

'The following information is for your private use only and is given in confidence on the express understanding that neither the Bank nor any of its Officials is to be held responsible and, where the information has been obtained from another bank or informant, without responsibility on the part of themselves or their officials' and

'The Bank is not a credit reference agency within the terms of Section 145(8) of the Consumer Credit Act 1974. Subject to the obligations of credit reference agencies under the Act, disclosure of the content and source of this opinion is not required'.

Reply forms provided by the enquirer should not be used, with the exception of those provided by Access Department or National Westminster Bank Subsidiary Companies.

Where a customer has given specific authority that status enquiries should not be answered, the reply on form NWB41 should be in the following terms:

'We are in receipt of your enquiry of the but would advise you that we hold our customer's instructions not to reply to any status enquiry which may be made of us.'

B2C Authorisation and Formulation

G10B2C

Replies to status enquiries **must** be given by the Manager or an Appointed Officer authorised by him. Great care should be taken in formulation and remarks should be well considered in the light of the customer's present position with due regard paid to the implication of enquiries 'in way of business', 'as guarantor' etc. **In any case where the customer's trading pattern, solvency or integrity is at all in doubt, or where the amount of the enquiry is large relative to customers known resources/means, or where an unusually large number of enquiries are being received, reference must be made to the Manager who in case of need, should refer to Area Office.**

Replies should be given in general terms. They should indicate length of association with the Bank, esteem in which the customer is held and, if a business, age and size of the undertaking. A reply on a company should mention debentures or general charges known to be outstanding in favour of the Bank. A reply on a farmer should disclose any agricultural charge given by him to the Bank.

In no circumstances may replies be given either to any detailed questions (eg about

eligibility for cheque cards) or to enquiries on one of two or more amounts.

Should information be obtained from outside the Bank, the reply must be transcribed onto form NWB41 and commence 'We are informed'. The source must not be disclosed.

All replies should be sent by first class mail.

B2D Dun & Bradstreet Limited (Incorporating Seyd & Co Ltd)

G10B2D

Approaches are made to Branches by outside representatives of the above-named company for oral opinions and these may be given at the Manager's discretion.

Forms requesting opinions are also sent to Branches periodically, sometimes in fairly large numbers, and either these provide a space for a written reply or the Branch is invited to tick the appropriate boxes on the forms. These forms should not be completed in any way but they may be returned to the sender. All replies to such enquiries must be made on form NWB41. No payment for this service should be sought.

B2E Remuneration

G10B2E

No charge should be made for answering a status enquiry, either to the financial institution making the enquiry or to the customer about whom the enquiry is made.

B2F Records and Filing

G10B2F

Details of each reply must be recorded on Opinions Given Card NWB1317 which an Appointed Officer must initial before the reply is issued. A reply relating to a guarantee must be entered in red (or underlined in red) and not abbreviated.

Further copies need not be taken. All enquiries should be filed in general Branch correspondence in date order.

B2G Guarantees

G10B2G

Where guarantor opinions are given to other Branches, information likely to be helpful should be passed on. When an initial enquiry is received relating to a suretyship to this Bank or one of its subsidiaries, a diary note for one month's time should be made to establish whether the liability is in fact entered into so that the rules of aggregation may receive consideration (see Book A, Section A2A1). If the enquiry is made by another Branch this information should be received without reminder (see Section G10B3A).

The Branch where the guaranteed account is kept is to be notified immediately on the

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death, bankruptcy, mental instability or any other circumstances affecting the capacity of the guarantor.

The following records should be marked, as appropriate:

(i) Opinions Given Card NWB1317. Entries on this card should be checked and initialled by the Manager or an Appointed Officer authorised by him.

(ii) Control and Information Cards NWB1873, NWB1874 and NWB1875 (see Book A, Appendix 7A, note 7).

(iii) Securities Sheet NWB1201 and Safe Custody Sheets NWB1306 and NWB1307 ('Other Liabilities' box).

(iv) Guarantor Record Card NWB1325 (if the guaranteed account is at the Branch).

B3 MAKING STATUS ENQUIRIES G10B3

B3A Method G10B3A

(i) An enquiry may be made direct to another Branch or to one of the financial institutions domiciled in the United Kingdom to which reference is made in Section G10C.

When an enquiry is made on a Branch of this Bank as to a customer's sufficiency as guarantor, the guarantor's Branch must be advised when the liability is entered into (Rules of Aggregation will apply — see Book A, Section A2A1).

Chapter continues on next sheet.

(ii) Enquiries should be made through Credit Information Office on form NWB1462 (see Section G10B3B) when:

- (a) the United Kingdom financial institution is not named in the list in Section G10C;
- (b) the banker of the subject of the enquiry is unknown (**Branches must first make the maximum effort to obtain a banking reference as no central index of accounts is maintained by the Bank**) – for enquiries on solicitors see (iii) below;
- (c) detailed information, not obtainable elsewhere, is required;
- (d) the financial institution is domiciled outside the United Kingdom.

(iii) Solicitors should not be approached for the names of their bankers. Where the practice address is outside the London postal area, the enquiry should be sent to the Branch nearest to that address. Should this prove unsuccessful or if the practice address is within the London postal area, the enquiry should be sent to Credit Information Office.

B3B Form NWB1462

G10B3B

All three sheets of this form must be completed, quoting the full Branch name and Branch reference, and forwarded in a standard window envelope (NWB4102) to Credit Information Office.

Note: Enquiries of a complex nature should be submitted by memorandum only, giving as much background information as possible.

Credit Information Office despatches enquiries to **Europe** by telex. A reply is usually received in the same manner and if requested will be communicated to the Branch by telephone, followed by written confirmation.

Enquiries to **countries outside Europe** are normally sent by airmail but replies from certain countries are subject to delay. Reminders should normally be sent by form NWB1462, marked prominently 'SECOND APPLICATION' giving the date of the original enquiry.

Alternatively, enquiries to **countries outside Europe** can be sent by telex or cable at a higher charge. If this is required, a form NWB1462 should be prominently marked 'TELEX'. A reply is usually received in the same manner and if requested will be communicated to the Branch by telephone, followed by written confirmation.

Status enquiries are not available from banks in **Norway** and **Sweden**, but agency reports can be obtained at a cost and would normally incorporate a banker's opinion.

Finnish banks do supply Status Reports, but charge for this service. For information on the relevant charges reference should be made to Credit Information Office.

UK and Republic of Ireland enquiries, where the banker is not known to the Branch, are normally forwarded by Credit Information Office to the respective bankers under advice to the enquiring Branch and, if the Branch does not receive a reply from the subject's bankers within ten days of receipt of that advice, a second enquiry should be forwarded direct to that bank using form NWB10. Where a Branch finds that information has been forwarded to it from a source other than that indicated on the Credit Information Office advice, details of this source should be advised to Credit Information Office.

B3C Formulation

G10B3C

B3C1 General

G10B3C1

Enquiries by telephone should only be made in exceptional circumstances.

Customers should be discouraged from:

- (a) the practice of making enquiries direct to other banks and Branches with the request that the reply be sent direct to the Branch;
- (b) making enquiries involving small amounts or small amounts over a period;
- (c) making enquiries for sums well in excess of the amount involved (this can be harmful to the customer's interests).

B3C2 Bank Acting as Agent for Other Banks

G10B3C2

A Bank is permitted to act as agent for another bank in the making of enquiries on behalf of a customer of the other bank provided:

- (a) the applicant already has arrangements for the regular use of the branch concerned;
- (b) prior arrangement for the service is made through the head offices of the two banks concerned.

Applications should be submitted to the Regional Administration Manager.

**B3D Lombard North Central PLC
Lombard Tricity Finance Ltd**

G10B3D

Branches should give every assistance to Offices of these subsidiaries in obtaining oral opinions urgently. When contacted:

- (i) to give an oral opinion on a Branch customer, the reply should be telephoned

back in the first instance and confirmed on form NWB41;

(ii) Obtain an oral opinion on a customer of another bank in the locality, endeavour to obtain this by telephone in the first instance. If the bank in question will not answer a telephone request, a confidential enquiry on form NWB10 should be made by hand, if possible, with a request that the reply be given by telephone. The opinion should be telephoned to the enquiring Office and confirmed in writing on form NWB41.

Note: In both cases the original enquiry will not be confirmed in writing; also, it is essential that the figures of the commitment are repeated in the oral reply by the Branch, and again in the written confirmation on form NWB41, eg 'E72 X 24 months'.

B3E Remuneration

G10B3E

See Book T, Item 187, paragraphs (a) to (d) for current rates.

A specific sum is payable by the customer when a status enquiry is made and should normally be applied to the account at the time.

Where an enquiry is made through Credit Information Office, the enquiring Branch will be notified in due course of any additional charge which should be made because of exceptional costs incurred in connection with a non-routine enquiry.

Where a customer makes an enquiry direct to another bank or Branch, notwithstanding the fact that this practice is to be discouraged (see Section G10B3C1), the appropriate charge should be made for passing on to the customer any reply received at the Branch.

B3F Records and Filing

G10B3F

File copies of requests for opinions should be initialled by a responsible Officer. The copies should be used for diary purposes when enquiries relate to guarantees or are otherwise important. Copies of correspondence transmitting opinions to customers should not be taken and no entries are to be made on cards. Correspondence from other banks or Branches should be initialled by a responsible Officer as an indication that opinions have been correctly transmitted.

B3F1 Guarantor Opinions

G10B3F1

Replies received to enquiries on guarantors should be stored alphabetically with the name of the guaranteed account and the amount of the enquiry recorded on each reply. As each new reply is received, the previous reply should be removed to the confidential waste, unless reference is

made to it. Opinions should be reviewed every six months, except where reliance on the guarantee is marginal only and the Manager is entirely satisfied to review at annual intervals.

B4 CREDIT INFORMATION OFFICE G10B4

The Bank is not licensed as a credit reference agency within the terms of Section 145 (8) of the Consumer Credit Act 1974 and Credit Information Office does not keep files on private individuals. To ensure that the Bank conforms to the requirements of this section of the Act, Credit Information Office cannot accept enquiries direct from any customer except where they relate to enquiries upon corporate bodies addressed to overseas bankers and then only by arrangement.

It follows that the Bank is not required to comply with a request from an individual, a partnership or an unincorporated body for a copy of any file kept by Credit Information Office and such requests should be refused by Branches.

If, however, a reply to a status enquiry is received from Credit Information Office which appears to contain material provided by a credit reference agency, any request from the individual, the partnership or the unincorporated body, which is the subject of the enquiry, should be passed to Credit Information Office. The case being proved, Credit Information Office forwards the name and address of the agency only, which should be passed to the enquirer without comment. The bank is under no obligation to provide the text of the information but it should be remembered that the files kept by credit reference agencies may include replies to status enquiries given by Branches on their customers (see Book A, Section AApp12F1).

Credit Information Office resources spread into many aspects of information and include maintaining contact with other international banks and credit reference agencies. These resources are available to all Branches, Departments and Subsidiary Companies.

Credit Information Office is organised to deal with enquiries received in writing on form NWB1462 and by telex. For this reason and in order to cope with the problem of establishing identity, telephone enquiries must be restricted to those which are of genuine urgency.

C List of Parties between whom Status Enquiries may be Passed Direct G10C

Note: The following list is only for the purpose of indicating such parties and is not to be taken as a list of recognised banks and licensed deposit-taking

institutions, for which see Book B, Appendix 12.

As far as Branches are concerned, confidential replies in general terms may be sent direct to enquiries received from the following (form NWB41 should be used except where a reply form is supplied by Access Department or a National Westminster Bank Subsidiary Company (see Section G10B2B)):

Access Department
Adam & Co PLC
African Continental Bank Ltd
Alexanders Discount PLC
Algemene Bank Nederland NV
The Alliance Trust PLC
Allied Arab Bank Ltd
Allied Bank International
Allied Banking Corporation
Allied Bank of Pakistan Ltd
Allied Irish Banks plc
Allied Irish Banks (Isle of Man) Ltd
Allied Irish Finance Co Ltd
Allied Irish Investment Bank Ltd
Al Saudi Banque SA *Bank Ltd*
American Express International Banking Corporation
American National Bank and Trust Company of Chicago
Amsterdam-Rotterdam Bank NV
Anglo Leasing Ltd
Anglo-Romanian Bank Ltd
Anglo-Yugoslav (LDT) Ltd
Henry Ansbacher & Co Ltd
AP Bank Ltd
Arab Bank Ltd
Arab Bank Investment Co Ltd
Arbuthnot Latham Bank Ltd
Associated Japanese Bank (International) Ltd
Associates Capital Corporation Ltd
Atlantic International Bank Ltd
ATP International
(Amalgamated Trades Protection Ltd)
Australia & New Zealand Banking Group Ltd
Australia & New Zealand Banking Group (Channel Islands) Ltd
Avco Trust Ltd

Badische Kommunale Landesbank
Girozentrale
B.A.I.L. PLC
(formerly Gray Dawes Bank PLC)
Banca Commerciale Italiana
Banca Nazionale dell'Agricoltura SpA
Banca Nazionale del Lavoro
Banca Serfin SNC
Banco Central SA
Banco de Bilbao SA
Banco de la Nacion Argentina
Banco de Santander SA
Banco de Vizcaya SA
Banco di Roma SpA

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Banco di Sicilia
Banco do Brasil SA
Banco do Estado de Sao Paulo SA
Banco Espirito Santo e Comercial de Lisboa
Banco Exterior - UK SA
Banco Hispano Americano Ltd
Banco Mercantil de Sao Paulo SA
Bancomer SNC
Banco Nacional de Mexico SNC
Banco Portugues do Atlantico
Banco Real SA
Banco Totta & Acores EP
Bangkok Bank Ltd
Bank Bumiputra Malaysia Berhad
Bank fur Gemeinwirtschaft AG
Bank Handlowy w Warszawie SA
Bank Hapoalim BM
Bank Julius Baer & Co Ltd
Bank Leumi (UK) PLC
Bank Mees & Hope NV
Bank Mellat
Bank Melli Iran
Bank of America International Ltd
Bank of America NT & SA
Bank of Baroda
The Bank of California NA
Bank of Ceylon
Bank of China
Bank of Credit and Commerce International SA
Bank of Cyprus (London) Ltd
Bank of England
Bank of India
The Bank of Ireland
Bank of Ireland Finance Ltd
Bank of Ireland Finance (NI) Ltd
Bank of London & South America Ltd
Bank of Montreal
Bank of New England NA
The Bank of New York
Bank of New Zealand
The Bank of Nova Scotia
Bank of Nova Scotia (Channel Islands) Ltd
The Bank of Nova Scotia Trust Company (United Kingdom) Ltd
Bank of Oman Ltd
Bank of Scotland
The Bank of Tokyo Ltd
Bank of Tokyo International Ltd
The Bank of Tokyo Trust Company
The Bank of Yokohama Ltd
Bank Saderat Iran
Bank Sepah
Bank Tejarat
Bankers Trust Company
Bankers Trust Company (Branch) Jersey
Bankers Trust International Ltd
Banque Belge Ltd
Banque Belgo-Zairoise SA
Banque Bruxelles Lambert SA
Banque du Liban et d'Outre-Mer
Banque Francaise du Commerce Extérieur
Banque Indosuez

Banque Internationale a Luxembourg SA
Banque Internationale pour l'Afrique
Occidentale SA

Banque Nationale de Paris plc
Banque Paribas

Barbados National Bank
Barclays Bank PLC
Barclays Bank Finance Company (Guernsey) Ltd
Barclays Bank Finance Company (Isle of Man) Ltd
Barclays Bank Finance Company (Jersey) Ltd
Barclays Bank Trust Company Ltd
Barclays Bank UK Ltd
Barclays Merchant Bank Ltd
Baring Brothers & Co Ltd
Bayerische Hypotheken-und Wechsel-Bank AG
Bayerische Landesbank Girozentrale
Bayerische Vereinsbank
Beirut Riyad Bank SAL
Beneficial Trust Ltd
Berliner Bank AG
The Boots Co Ltd
Boston Trust & Savings Ltd
The British Bank of the Middle East
British Credit Trust Ltd
British Government departments
The British Linen Bank Ltd
British Mercantile Agency Ltd
British nationalised industries
British Telecom
Brown, Shipley & Co Ltd
Brown Shipley (Guernsey) Ltd
Brown Shipley (Jersey) Ltd
Building Societies Association members,
provided the enquiry is accompanied by the
customer's authority to reply direct to the
society.

Bunge Finance Ltd
Burns-Anderson Trust Co Ltd (BATCO)
Byblos Bank SAL

Caisse Nationale de Credit Agricole
Canadian Imperial Bank of Commerce
Canara Bank
Carolina Bank Ltd
Cassa di Risparmio delle Provincie Lombarde
Cater Allen Ltd
Cattles Holdings Finance Ltd
CCN Systems Ltd
Central Bank of India
Central Trustee Savings Bank Ltd
+ Centre-file Ltd
+ Centre-file (Northern) Ltd
+ C F Financial Services Ltd
(see Book R, Section R 7E)
Chartered Trust plc
Charterhouse Japhet PLC
Charterhouse Japhet Credit Ltd
Charterhouse Japhet (Jersey) Ltd
Chase Bank (CI) Ltd
Chase Bank (Ireland) Ltd
The Chase Manhattan Bank NA
Chase Manhattan Ltd

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Chemical Bank
Chemical Bank International Ltd
~~The~~ Cho-Houng Bank Ltd
The Chuo Trust & Banking Company Ltd
CIC-Union Européenne, International et Cie
Citibank NA
Citibank Trust Ltd
Citicorp International Bank Ltd
City Trust Ltd
Clive Discount Company Ltd
Clydesdale Bank PLC
Clydesdale Bank Finance Corporation Ltd
CE Coates & Co Ltd
Comerica Bank Detroit
Commercial Bank of Korea Ltd
The Commercial Bank of the Near East PLC
Commercial Bank of Wales PLC
Commerzbank AG
Commonwealth Bank of Australia
Commonwealth Savings Bank of Australia
Continental Illinois National Bank and Trust
Company of Chicago

Co-operative Bank plc
Co-operative Bank (Commercial) Ltd
+ County Bank Ltd
+ Coutts & Co
+ Coutts Finance Co
Credit Commercial de France
Credit du Nord
+ Credit Factoring Ltd
(see Book R Section R7E)
Credit Lyonnais
Credit Lyonnais Bank Nederland NV
Credit Suisse
Credit Suisse First Boston Ltd
Creditanstalt-Bankverein
Credito Italiano
Credito Italiano International Ltd
Crocker National Bank
Currys Limited
Custom Leasing Ltd
Cyprus Finance Corporation (London) Ltd
The Cyprus Popular Bank

The Dai-Ichi Kangyo Bank Ltd
The Daiwa Bank Ltd
Den Danske Bank af 1871 Aktieselskab
Deutsche Bank AG
Deutsche Genossenschaftsbank
+ Deutsche Westminster Bank AG
The Development Bank of Singapore Ltd
Discount Bank (Overseas) Ltd
Dresdner Bank AG
Dun and Bradstreet Limited
(see Section G10B2D)
Dunbar & Co Ltd plc.

ET Trust Ltd
Euro-Latinamerican Bank Ltd
European Arab Bank Ltd
European Banking Company Ltd
European Brazilian Bank Ltd

Fidelity Bank NA
 James Finlay Corporation Ltd
 First City National Bank of Houston
 First Interstate Ltd *CAPITAL MARKETS LTD*
 First Interstate Bank of California
 The First National Bank of Boston
 The First National Bank of Boston
 (Guernsey) Ltd
 The First National Bank of Chicago
 The First National Bank of Chicago
 (CI) Ltd
 First National Bank of Maryland
 First National Bank of Minneapolis
 First National Securities Ltd
 First Pennsylvania Bank NA
 First Wisconsin National Bank of Milwaukee
 Robert Fleming & Co Ltd
 Ford Financial Trust Ltd
 Ford Motor Credit Co Ltd
 Forward Trust Ltd
 French Bank of Southern Africa Ltd
 The Fuji Bank Ltd

Gerrard & National plc
 Ghana Commercial Bank
 Girozentrale und Bank der Österreichischen
 Sparkassen AG
 Government Departments (in the UK)
 Greyhound Guaranty Ltd
 Grindlay Brandts Ltd
 Grindlays Bank PLC
 Grindlays Bank (Jersey) Ltd
 Grindlays Industrial Finance Ltd
 Grindlays Humberclyde Ltd
 Guardian Society of Scotland
 Guinness Mahon & Co Ltd
 Guinness Mahon Guernsey Ltd
 Gulf International Bank BSC

HFC Trust & Savings Ltd
 Habib Bank AG Zurich
 Habib Bank Ltd
 Hambros Bank Ltd
 Hambros Bank (Guernsey) Ltd
 Hambros Bank (Jersey) Ltd
 Hanil Bank
 + Handelsbank NW
 Harris Trust and Savings Bank
 Harrods Trust Ltd
 Havana International Bank Ltd
 The Heritable & General Trust Ltd
 Hessische Landesbank-Girozentrale
 Hill Samuel & Co Ltd
 Hill Samuel & Co (Guernsey) Ltd
 Hill Samuel & Co (Jersey) Ltd
 C Hoare & Co
 The Hokkaido Takushoku Bank Ltd
 The Hongkong and Shanghai Banking
 Corporation
 The Hongkong and Shanghai Banking
 Corporation (CI) Ltd
 Hungarian International Bank Ltd

The Industrial Bank of Japan Ltd
 InterFirst Bank Dallas NA
 International Commercial Bank PLC
 International Energy Bank Ltd *See S.F.E. Bank Ltd.*
 International Mexican Bank Ltd
 + International Westminster Bank PLC
 The Investment Bank of Ireland Ltd
 Investors in Industry PLC
 Iran Overseas Investment Corporation Ltd
 Irving Trust Company
 + Isle of Man Bank Ltd
 Istituto Bancario San Paolo di Torino
 Italian International Bank PLC
 Italian International Bank (CI) Ltd

JCB Limited
 + JCB Credit Ltd
 Japan International Bank Ltd
 Johnson Matthey Bankers Ltd
 Leopold Joseph & Sons Ltd
 Leopold Joseph & Sons (Guernsey) Ltd

Keesler Federal Credit Union
 King & Shaxson PLC
 Kleinwort, Benson Ltd
 Kleinwort, Benson (Channel Islands) Ltd
 Kleinwort, Benson (Guernsey) Ltd
 Kleinwort, Benson (Isle of Man) Ltd
 Knowsley & Co Ltd
 Korea Exchange Bank
 Korea First Bank
 Kredietbank NV
 The Kyowa Bank Ltd

F van Lanschot Bankiers NV
 Lazard Brothers & Co Ltd
 Lazard Brothers & Co (Jersey) Ltd
 Libra Bank PLC
 Liverpool & London Trade Protection Society
 Ltd

Lloyds & Scottish PLC
 Lloyds Bank PLC
 Lloyds Bank International Ltd
 Lloyds Bank International (France) Ltd
 Lloyds Bank (LABCO) Ltd
 Lloyds Bowmaker Ltd

Lloyds Bank Ltd
Bank Ltd

+ Lombard Acceptances Ltd
 + Lombard & Ulster Ltd
 + Lombard & Ulster Banking Ireland Ltd
 + Lombard & Ulster Leasing Ltd
 + Lombard Bank (Isle of Man) Ltd
 + Lombard Banking (Jersey) Ltd
 + Lombard North Central PLC
 (see Section G10B3D)
 + Lombard Tricity Finance Ltd
 (see Section G10B3D)
 London & Continental Bankers Ltd
 London Interstate Bank Ltd
 The Long-Term Credit Bank of Japan Ltd

Malayan Banking Berhad
 Manufacturers & Merchants (Protection)
 Association Ltd

Manufacturers Hanover Ltd
Manufacturers Hanover Export Finance Ltd
Manufacturers Hanover Finance Ltd
Manufacturers Hanover Trust Company
Marine Midland Bank NA
Meghraj & Sons Ltd
Mellon Bank NA
Mercantile Bank Ltd
Mercantile Credit Company Ltd
Merrill Lynch International Bank Ltd
Middle East Bank Ltd
Midland Bank PLC
Midland Bank Equity Holdings Ltd
Midland Bank Finance Corporation Ltd
Midland Bank Trust Company Ltd
Midland Bank Trust Corporation (Guernsey) Ltd
Midland Bank Trust Corporation (Isle of Man) Ltd
Midland Bank Trust Corporation (Jersey) Ltd
Minster Trust Ltd
The Mitsubishi Bank Ltd
The Mitsubishi Trust and Banking Corporation
The Mitsui Bank Ltd
The Mitsui Trust & Banking Company Ltd
Samuel Montagu & Co Ltd
Morgan Grenfell & Co Ltd
Morgan Grenfell (Guernsey) Ltd
Morgan Grenfell (Jersey) Ltd
Morgan Guaranty Trust Company of New York
Moscow Narodny Bank Ltd
Multibanco Comermex SNC
Muslim Commercial Bank Ltd
The Mutual Communication Society for the Protection of Trade Limited

National Australia Bank Ltd
National Bank of Abu Dhabi
National Bank of Canada
National Bank of Detroit
National Bank of Egypt
National Bank of Greece SA
The National Bank of Kuwait SAK
The National Bank of New Zealand Ltd
National Bank of Nigeria Ltd
National Bank of Pakistan
National Commercial & Glyns Ltd
National Girobank
National Westminster Bank PLC
National Westminster Bank Finance (CI) Ltd
NCNB National Bank of North Carolina
Nedbank Ltd
Nederlandsche Middenstandsbank NV
New Nigeria Bank Ltd
The Nippon Credit Bank Ltd
Noble Grossart Ltd
Norddeutsche Landesbank Girozentrale
Nordic Bank PLC
Northern Bank Ltd
Northern Bank Development Corporation Ltd
The Northern Trust Company

North West Securities Ltd

Orion Royal Bank Ltd
Orion Royal Bank (Guernsey) Ltd
Osterreichische Landerbank AG
Oversea-Chinese Banking Corporation Ltd
Overseas Trust Bank Ltd
Overseas Union Bank Ltd

Pallas Leasing Ltd
Philippine National Bank
PK Christiania Bank (UK) Ltd
Postipankki (UK) Ltd
Post Office
Privatbanken Ltd
Punjab National Bank
Punjab & Sind Bank

Qatar National Bank SAQ
~~Gerald~~ Quin Cope & Co Ltd

Rafidain Bank
R Raphael & Sons PLC
Rathbone Bros. & Co
Rea Brothers PLC
Rea Brothers (Guernsey) Ltd
Rea Brothers (Isle of Man) Ltd
~~PS Refson & Co Ltd~~ *See City Merchants Bank Ltd*
Republic National Bank of New York
Republic Bank Dallas, NA
Reserve Bank of Australia
The Riggs National Bank of Washington DC
Riyad Bank
NM Rothschild & Sons Ltd
NM Rothschild & Sons (CI) Ltd
The Royal Bank of Canada
Royal Bank of Canada (Channel Islands) Ltd
The Royal Bank of Scotland PLC
The Royal Trust Company of Canada
RoyWest Banking Corporation Ltd
The Rural and Industries Bank of Western Australia

St. Margaret's Trust Ltd *S.F.E. Bank Ltd*
The Saitama Bank Ltd
The Sanwa Bank Ltd
Saudi International Bank
(Al-Bank Al-Saudi Al-Alami Ltd)
Scandinavian Bank Ltd
J Henry Schroder Wagg & Co Ltd
Seattle-First National Bank
Secombe Marshall & Campion PLC
Security Pacific National Bank
Shanghai Commercial Bank Ltd
Singer & Friedlander Ltd
Singer & Friedlander (Isle of Man) Ltd
Smith St. Aubyn & Co Ltd
Smith & Williamson Securities
Societe Generale Merchant Bank Ltd
Societe Generale
Sonali Bank
Standard Chartered Bank

Standard Chartered Bank Africa PLC
 Standard Chartered Merchant Bank Ltd
 State Bank of India
 State Bank of New South Wales
 State Bank of South Australia
 State Bank of Victoria
 The Sumitomo Bank Ltd
 The Sumitomo Trust and Banking Company Ltd
 Swiss Bank Corporation
 Swiss Bank Corporation International Ltd
 Syndicate Bank

The Taiyo Kobe Bank Ltd
 TCB Ltd
 Texas Commerce Bank NA
 The Thai Farmers Bank Ltd
 Thames Trust Ltd
 The Tokai Bank Ltd
 The Toronto-Dominion Bank
 The Toyo Trust & Banking Company Ltd
 Trade Development Bank
 Trade Indemnity Company Limited
 Trustee Savings Banks (**except** Airdrie,
 Annan and Lockerbie Savings Banks)
 Turkish Bank Ltd
 Turkiye Is Bankasi AS
 Tyndall & Co

UBAF Bank Ltd
 + Ulster Bank Ltd
 + Ulster Bank Trust Company
 + Ulster Investment Bank Ltd
 Union Bank of Finland Ltd
 Union Bank of India
 Union Bank of Nigeria Ltd
 Union Bank of Switzerland
 The Union Discount Company of London PLC
 United Bank Ltd
 The United Bank of Kuwait Ltd
 United Commercial Bank
 United Dominions Trust Ltd
 United Mizrahi Bank Ltd
 United Overseas Bank Ltd
 The United Association for the Protection of
 Trade Limited

SG Warburg & Co Ltd
 SG Warburg & Co (Jersey) Ltd
 Wardley London Ltd
~~Wells Fargo Bank NA~~
 Westdeutsche Landesbank Girozentrale
 Western Trust & Savings Ltd
 Westpac Banking Corporation
 Whiteaway Laidlaw & Co Ltd
~~Williams & Glyn's Bank PLC~~
 Wintrust Securities Ltd
 Württembergische Kommunale Landesbank
 Girozentrale

The Yasuda Trust and Banking Co Ltd
 Yorkshire Bank PLC
 Yorkshire Bank Leasing Ltd

Zambia National Commercial Bank Ltd
 Zivnostenska Banka National Corporation

+ **National Westminster Bank PLC**
Subsidiary company

Chapter continues at Section G10D.

Other Confidential Disclosures G10D

D1 DIRECTOR OF PUBLIC PROSECUTIONS G10D1

Any request for information from the Director of Public Prosecutions connected with company liquidation must be reported to Recoveries Section, Securities and Recoveries Department, for instructions.

D2 DEPARTMENT OF TRADE AND DEPARTMENT OF INDUSTRY G10D2

Inspectors with powers to call for information in connection with company liquidation are appointed from time to time. Any approach from them should be reported immediately to Recoveries Section, Securities and Recoveries Department, for instructions.

D3 INLAND REVENUE G10D3

The Bank is required to furnish an annual return to the Commissioners of Inland Revenue of the names and addresses of persons, to whom interest exceeding a specified sum has been paid or credited without deduction of income tax during the previous financial year, and Branches are advised when the return is due (see Book B, Section B8E2). The Commissioners of Inland Revenue are authorised to call for information regarding the acquisition or disposal of assets likely to be subject to capital gains tax. Any notice served upon a Branch should be forwarded to the Regional Administration Manager. The power of enquiry is limited to the Commissioners and does not extend, for example, to a local inspector of taxes.

D4 THE POLICE G10D4

Reference should be made to Section G17G3.

D5 OFFICE OF FAIR TRADING G10D5

The powers of enforcement officers under the Consumer Credit Act 1974 are restricted in relation to banks (see Book A, Section AApp12F3). The enforcement officer is usually an official from the local Trading Standards Office.

D6 H M CUSTOMS AND EXCISE (VALUE ADDED TAX) G10D6

Reference should be made to Book B, Section B13A3.

D7 FINANCIAL GUARANTEES IN RESPECT OF UNIVERSITY/ COLLEGE FEES G10D7

Universities and colleges occasionally seek guarantees — often from parents — in respect of fees due by a student.

The form of guarantee incorporates a certificate as to the standing of the guarantor, together with a request that this certificate be completed by the guarantor's bankers. The Bank does not act as guarantor. The Bank would prefer not to complete such certificates and a normal status enquiry reply should be given on the standard form through the bankers to the university /college in the usual way.

Where, however, the normal status enquiry reply is not acceptable to the university /college, the specific authority of the customer must be obtained and the financial guarantee completed with the usual disclaimers inserted (see Section G10B2B) and the certification completed indicating that it is based on present knowledge and belief.

D8 TRADE DESCRIPTIONS ACT 1968 G10D8

If a Trading Standards Officer or other duly authorised officer of a local Weights and Measures Authority or Government Department requests information and/or access to any books or documents at a Branch, the Manager should require him to produce his credentials and then refer the matter to the Regional Administration Manager immediately giving full details.

Reference to the Regional Administration Manager should be made notwithstanding that the officer may claim to be exercising his powers under Section 28(1)(b) of the Trade Descriptions Act, 1968.

Where a Branch receives notice of intention to apply for a Justice's warrant under Section 28(3) of the Act or where such a warrant is produced, immediate reference, giving full details, must be made to Recoveries Section, Securities and Recoveries Department, for guidance.

D9 ESTATE AGENTS ACT, 1979 G10D9

Section 11 of the Act gives to duly authorised officers of enforcement authorities powers of entry to Branches and access to information/books and documents similar to those contained in Section 28(1)(b) of the Trade Descriptions Act, 1968 (see Section G10D8); although it should be noted that in the case of the Estate Agents Act an officer of the local Weights and Measures Authority is not to be taken to be duly authorised in relation to books and documents relating to the Bank's business unless he has been specifically authorised by the Director General of Fair Trading.

In case of difficulty reference should be made to the Regional Administration Manager.

Mr. [unclear]
5/11

Life [unclear]
the
1/11

Your interest to see
this file.
The letter referred to

in the RBA memo is that flagged

for 13/1/83. It appears that we

~~Mr. [unclear]~~
the fish

did not on John Bork's advice

but that the matter was

subsequently placed in abeyance by

the Royal Commission itself.

5/11



RESERVE BANK OF AUSTRALIA

65 MARTIN PLACE

BOX 3947 GPO SYDNEY 2001

TELEPHONE 234 9333

IN REPLY PLEASE QUOTE SD

25 October 1985

Attention: Mr J. Jepsen

The Secretary
The Treasury
Parkes Place
CANBERRA ACT 2600

Dear Sir,

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES
OF THE NUGAN HAND GROUP

We attach a copy of the Royal Commission's letter of 28 June 1985 which has been provided to us on the basis that its contents may provide evidence of offences under the Banking (Foreign Exchange) Regulations.

As you are aware, the terms of reference of the Royal Commission of Inquiry into Drug Trafficking were extended with Letters Patent issued on 28 March 1983 to make inquiry into and report whether the Nugan Hand Group engaged in activities contravening Commonwealth laws, including those relating to exchange control. At the request of the Commission, the Bank had earlier:

- . responded to the Commission's request for details of any prior Reserve Bank examination of the Nugan Hand Group;
- . supplied substantial exchange control documentation to the Commission, in response to a summons dated 23 August 1983;
- . nominated an officer to assist the Commission with its enquiries into operational and policy aspects of exchange control and to participate in formal conferences with the Commission's staff.

Our examination of files relating to Nugan Hand and the names of persons/corporations appearing in the schedules attached to the Commission's latest letter discloses:

440
156

29/10
M. B. [unclear]
to see
Mr M. [unclear]
brief memo to
refer matter to BPP in view of his
organisation under B(FE) R's.
pg 29/10

139
155

2.

- . During the period (1977-1980) covered by the schedules, the Bank gave Nugan Hand Ltd a large number of authorities to borrow funds from overseas. The names of many of the overseas lenders to Nugan Hand Ltd appear several times in the schedules. However, we have not been able to relate any inflows detailed in the schedules to any specific borrowing authorities given by the Bank. During the same period the Bank also gave Nugan Hand Ltd a large number of authorities to repay borrowings. The schedules disclose a large number of principal and interest payments by Nugan Hand Bank, Cayman Islands, on account of Nugan Hand Ltd; in only a small number of cases is it possible to relate these payments to authorities given by the Bank to the local company.

- . The names J.L. Aston and Kevin Murray appear together on several occasions in connection with the purchase of a home unit in Hawaii. In November 1981 the Bank wrote to both persons drawing their attention to several unauthorised transactions associated with its purchase. On 15 January 1983 we wrote to Treasury detailing possible breaches by them of the Banking (Foreign Exchange) Regulations.

Refer on 83/97(7)

- . We have files on many other names mentioned in the schedules. Except in the case of Nugan Hand Ltd and Messrs Aston and Murray, our files disclose no information apparently relating to the transactions described in the schedules.

On the face of it, the transactions reported by the Commission involve breaches of the Banking (Foreign Exchange) Regulations (as then in effect), specifically Regulations 8(3) (a) (i) and (ii) and Regulation 41.

At the request of the Federal Police, who are conducting enquiries on behalf of the Nugan Hand Royal Commission into the "Yorkville Contra account" of Nugan Hand, the Bank recently gave access to police officers to its files on persons named in the schedules.

We are forwarding this material to you for any action you consider necessary.

Yours faithfully,

M. R. Hill

M.R. Hill
Secretary

Encl.

*go into not 15/11
No let me see
file containing
- the letter*



RESERVE BANK OF AUSTRALIA

65 MARTIN PLACE

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TELEPHONE 234 9333

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Our examination of files relating to Nugan Hand and the names of persons/corporations appearing in the schedules attached to the Commission's latest letter discloses:

Att. Stewart RL file.

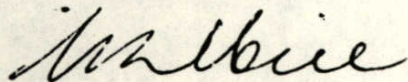
- . During the period (1977-1980) covered by the schedules, the Bank gave Nugan Hand Ltd a large number of authorities to borrow funds from overseas. The names of many of the overseas lenders to Nugan Hand Ltd appear several times in the schedules. However, we have not been able to relate any inflows detailed in the schedules to any specific borrowing authorities given by the Bank. During the same period the Bank also gave Nugan Hand Ltd a large number of authorities to repay borrowings. The schedules disclose a large number of principal and interest payments by Nugan Hand Bank, Cayman Islands, on account of Nugan Hand Ltd; in only a small number of cases is it possible to relate these payments to authorities given by the Bank to the local company.
- . The names J.L. Aston and Kevin Murray appear together on several occasions in connection with the purchase of a home unit in Hawaii. In November 1981 the Bank wrote to both persons drawing their attention to several unauthorised transactions associated with its purchase. On 15 January 1983 we wrote to Treasury detailing possible breaches by them of the Banking (Foreign Exchange) Regulations.
- . We have files on many other names mentioned in the schedules. Except in the case of Nugan Hand Ltd and Messrs Aston and Murray, our files disclose no information apparently relating to the transactions described in the schedules.

On the face of it, the transactions reported by the Commission involve breaches of the Banking (Foreign Exchange) Regulations (as then in effect), specifically Regulations 8(3) (a) (i) and (ii) and Regulation 41.

At the request of the Federal Police, who are conducting enquiries on behalf of the Nugan Hand Royal Commission into the "Yorkville Contra account" of Nugan Hand, the Bank recently gave access to police officers to its files on persons named in the schedules.

We are forwarding this material to you for any action you consider necessary.

Yours faithfully,



M.R. Hill
Secretary

Encl.

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ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES
OF THE NUGAN HAND GROUP

Commissioner: THE HON. MR. JUSTICE D. G. STEWART
Secretary: MR. G. R. LINNANE

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

28 June 1985

The Secretary
Reserve Bank of Australia
Level 10, 65 Martin Place
SYDNEY N.S.W. 2000

Attention: Chief Manager
International Department

Dear Sir,

Re: Information furnished pursuant to section 6P
of the Royal Commissions Act 1902

The following material (CD11545) is provided to you by the Commission pursuant to section 6P of the Royal Commissions Act 1902 on the basis that its contents may provide evidence of offences within your law enforcement area.

The Commission has prepared three schedules of transactions, which provide details of a facility which the Nugan Hand Group termed 'Yorkville Contra' whereby a client could deposit money with a particular Nugan Hand company in one country on the understanding that the client had the right to receive an equivalent amount from a Nugan Hand company in another country. In each case one of the countries concerned would be Australia and there would be no transmission of money across national borders. The word 'Yorkville' was a reference to the fact that in the early days of the Group the clients using this facility were treated as clients of Yorkville Nominees Pty Ltd. Each of the schedules is based on a different accounting source and should, with one possible exception, represent different transactions.

Schedule D

This schedule contains a list of all Yorkville Contras which were recorded in an account entitled 'Yorkville Contra' in the books of the Nugan Hand Bank. The Nugan Hand Bank, of course, was incorporated in the Cayman Islands.

Schedule E

for? This schedule contains a list of all Yorkville Contras included in the account entitled 'Nugan Hand Ltd' in the books of the Nugan Hand Bank. The majority of these transactions were of a particular type, that is, deposits made from overseas to Nugan Hand Ltd in Sydney, the liability for which was assumed by the Nugan Hand Bank which in due course repaid the deposit overseas. Before July 1977 these were included in the account styled 'Yorkville Contra'. Thereafter they were included in the account entitled 'Nugan Hand Ltd'. These transactions have been included as Yorkville Contras because they satisfy the basic definition

of a Yorkville Contra although it could be argued that in the case of some of these transactions repayment by a different company in a different country was not so much a facility for the client's purposes but rather an arrangement which was convenient to the Nugan Hand Group.

Schedule F

This schedule refers to Yorkville Contra transactions to or from the Nugan Hand Bank which were not included in the books and records styled 'Yorkville Contra' and 'Nugan Hand Ltd'. It also includes transactions to or from Nugan Hand Inc. Panama (before the formation of the Nugan Hand Bank) as well as those located amongst the records of Nugan Hand (Hong Kong) Ltd and Nugan Hand Singapore (Pte) Ltd. Many of the transactions relate to deposits received in Australia for which International Certificates of Deposit were issued by the Nugan Hand Bank. It should be noted that a journal entry of 30 June 1979 in the books of the Nugan Hand Bank charged the account entitled 'Yorkville Contra' for adjustments made to deposits accepted from clients in the amount of US\$2.3 million.

In compiling the schedules it was noted that the Nugan Hand Bank books and records showed inconsistencies in the exchange rates adopted from time to time. When a credit was raised in the Nugan Hand Bank's books, in respect of a Yorkville Contra transaction, the Nugan Hand Bank applied the middle rate on that day. When the Nugan Hand Bank purchased or sent a draft or telegraphic transfer overseas the buying rate on that day was applied. When the books and records were written up, the rate applicable at the end of the month, at the end of several months, or at the end of the financial year was used to convert Australian, Hong Kong and Singapore dollars to United States dollars which was the currency used by the Nugan Hand Bank for recording purposes. Accordingly, the Nugan Hand Bank records sometimes reflected different United States dollar amounts for the same transaction. Where this occurred and where the situation was otherwise unclear, the Commission has taken the rate ruling on the day of the transaction.

Schedule G

In addition to these three Schedules which contained only the essential facts concerning each transaction, namely, date, amount, client etc, a further Schedule has been prepared setting out the detailed circumstances of each of these transactions to enable their complexity and diversity to be appreciated.

Please sign and return the attached copy of this letter and the schedules to acknowledge receipt of these documents.

Yours faithfully,

A. Norman-Green
for A. Norman-Green
Acting Secretary

*In a separate document the people at
time of receiving this, signing was
made by Mrs. T. Thomas at request
for a signature by T. Thomas
documents*
AK 11/7/85

John Lay

Doesn't want to
approve deletions.

Car

No meeting until 28 Oct.

→ Lodge on 18th:

N.S.W. - Final details
next week.

Warr. Gleson return
next week.

Part 10.

10/10

CONFIDENTIAL

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Mr J.A. Fraser
Minister (Economic)
Australian Embassy
1601 Massachusetts Avenue NW
WASHINGTON DC 20036
USA

- 4 OCT 1985

Dear John

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN
HAND GROUP: BANKERS' OPINIONS

I am writing to seek your assistance in relation to a recommendation of the above-mentioned Royal Commission concerning 'bankers' opinions'. As the term implies, bankers' opinions are essentially references or opinions provided by banks, normally to other banks, on the financial standing or worth of their clients.

The following background is for your information only at this stage since the Commission's Report has not yet been released. In brief, the concerns that led the Commission to focus on bankers' opinions arose from the apparent ability of the Nugan Hand Group to influence the issue of favourable opinions on its financial standing and the subsequent very effective use made of those opinions in expanding the Group's activities, particularly in South East Asia.

Of particular concern to the Commission was its finding that, through a process of negotiation between the principals of the Nugan Hand Group and the Branch Manager of the bank with whom it dealt, the Group was able to inject into the bank's 'opinion' balance sheet information that had essentially been contrived to give an impression of a strongly expanding asset base. At the same time, the Commission found that the Group was also able to achieve, through a series of suggested drafting amendments, the omission of other essential information, such as profit performance, and to have incorporated information on the activities of its overseas affiliates which did not deal directly with the bank and on which the bank was not therefore in a position to make any assessment.

In view of these findings, the Commission recommended that a committee be set up with a view to establishing criteria to be followed by banks in issuing opinions on their clients' financial standing and worth.

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2

We are participating in a Working Group, together with the Reserve Bank and the Attorney-General's Department, which has been formed to look at this issue. As part of this exercise we are interested in comparing practice in Australia with the practice adopted in other countries. We would, therefore, be grateful for any information you may be able to obtain on:

- (a) the legal standing of, and accepted practice with, bankers' opinions in the United States;
- (b) guidelines used by banks in the United States to control the issue of such opinions; and
- (c) whether those guidelines are influenced by any formal (ie legislative) or informal Government direction.

Bearing in mind the composition of the Working Group and the legal context of this matter you may wish to liaise with the representative of the Attorney-General's Department within the Embassy in dealing with it.

While we are not currently working towards a set time for completion of the Working Group's Report, your early response would be most appreciated.

I am sending copies of this letter to the Treasury posts in London and Tokyo with the request that they make similar inquiries.

Kind regards.

Yours sincerely

Sgd J. Jepsen.

K. Waller
Acting First Assistant Secretary
3 October 1985

CONFIDENTIAL

CONFIDENTIAL

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147

Mr J.S. Eyers
Acting Minister (Treasury)
Australian High Commission
Australia House
The Strand
LONDON WC 4LA ENGLAND

4 OCT 1985

Dear John

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN
HAND GROUP: BANKERS' OPINIONS

I attach a copy of a self-explanatory letter which we have
addressed to John Fraser on the above matter.

We would be grateful if you could undertake the enquiries set
out in paragraph 5 of the letter in respect of the use of
bankers' opinions in the UK.

Yours sincerely

Sgd J. Jepsen.

K. Waller
Acting First Assistant Secretary

CONFIDENTIAL

CONFIDENTIAL

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Mr G. Potts
Minister (Financial)
Australian Embassy
1-14 Mita 2-Chome
Minato-Ku
TOKYO JAPAN

- 4 OCT 1985

Dear Garry

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN
HAND GROUP: BANKERS' OPINIONS

I attach a copy of a self-explanatory letter which we have
addressed to John Fraser on the above matter.

We would be grateful if you could undertake the enquiries set
out in paragraph 5 of the letter in respect of the use of
bankers' opinions in Japan.

Yours sincerely

Sgd J. Jepsen.

K. Waller
Acting First Assistant Secretary

CONFIDENTIAL

6949f

83/631

The Secretary
Department of the Special Minister of State
West Block
BARTON ACT 2600

ATTENTION Ms A. Quinn

REPORT OF THE ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES
OF THE NUGAN HAND GROUP

This memorandum is to confirm our oral advice to you on 1 October 1985 that our only substantive comment on the draft Cabinet Submission forwarded to us under cover of your memorandum of 30 September 1985 is that we consider the last paragraph in the draft Ministerial Statement should be amended to read as follows:

"(4) Finally, a working group of officials has been established to liaise with the banking sector and to review criteria for the issuing of bankers' opinions."

2. I would also mention that, subsequent to our conveying the above to you, Attorney-General's Department have discussed with us amendments they propose to suggest. In essence, it would appear that A-G's proposed amendments will be aimed at bringing out more clearly in the Submission and Tabling Statement the fact that the alleged breaches of laws etc, and hence, on-going action in that regard, are matters that principally fall within the sphere of the NSW Government's responsibilities. As part of that, we have agreed that references to possible breaches of Commonwealth laws as they relate to foreign exchange regulations be *also* qualified by adding in the words 'as they then applied'. Exchange control policies administered under the Regulations were, of course, substantially liberalised following the floating of the \$A in December 1983.

M
f. K. Waller
A/g First Assistant Secretary

-3 OCT 1985

Mr. Waller

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M. H. Cuthbert
Mr. Kirk, ATF pl.

Mr. Deagan

Thanks.

*A sensible
approach.*

Mr. 7/10

Mr. W. G. W.
7/10

F83/631

The Secretary
Attorney-General's Department
CANBERRA ACT 2600

ATTENTION Mr H. Woltring

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN
HAND GROUP: BANKERS' OPINIONS

As you may be aware, the Officials Committee on Law Enforcement agreed at its meeting on 25 July 1985 that an informal working group comprising representatives from Treasury, the Reserve Bank and Attorney-General's Department be established to consider the recommendation of the Stewart Royal Commission (recommendation 11.8, page 1099) concerning bankers' opinions.

2. It would seem to us that, as a first step in progressing the exercise, it would be desirable to establish more complete information on:

- the legal standing of, and accepted practice with, opinions in other countries;
- the current legal position of opinions and bankers' obligations in that regard in Australia; and
- guidelines used by banks to control the issue of opinions in Australia and in other countries.

3. We have consulted the Reserve Bank on these matters and the Bank has agreed to assume prime responsibility for consulting with the Australian Bankers' Association on Australian practice in respect of guidelines used by banks to control the issue of opinions. While the Reserve Bank will also seek from the Association any information it may be able to provide on overseas practices, we are also contacting Treasury posts in Washington, Tokyo and London to establish whether they are able to obtain information on the position in other countries. In that regard, there may be advantages in our respective representatives based in Washington liaising on this matter and we intend suggesting this in our correspondence to that post.

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4. The question of the current legal position of opinions/obligations of bankers in Australia is, of course, essentially a matter for Attorney-General's Department and we therefore presume that you will be looking at this question.

5. If the foregoing is acceptable to you we propose, once the necessary information is to hand, to canvass the informal views of the members of the Working Group and prepare an initial draft paper for consideration. It does not appear to us at this stage that a formal meeting of the group will be necessary although, of course, further processes will depend to some extent on the outcome of the proposed initial information gathering exercise. We would nevertheless welcome any thoughts you may have at this stage on the issues before the Working Group or on additional matters that you believe the Working Group should address.

6. The Treasury contact officer on this matter is Mr M. Edwards (632828).

AT/10
JS
K. Waller

f A/g First Assistant Secretary

2.10.85

CONFIDENTIAL

ATTORNEY-GENERAL'S DEPARTMENT

TEL: 71 9111

ROBERT GARRAN OFFICES
NATIONAL CIRCUIT
BARTON A.C.T. 2600

PLEASE QUOTE: CL85/9372:JF
YOUR REF:

2 October 1985

The Secretary,
Department of the Special Minister
of State,
West Block,
PARKES A.C.T. 2600

Attention: Mr M.F. Domney

Stewart Commission On Nugan Hand Final Report.

I refer to your memorandum of 30 September 1985 and to the attached Draft Cabinet Submission.

2. This Department's comments are made in light of the preponderance of specific offences against New South Wales law rather than Commonwealth law which the Commission has found have been committed.

3. In the Draft Submission, the first sentence of paragraph 4 should be deleted and replaced by words to the following effect -

"4. The Commission did find evidence of breaches by companies of the Nugan Hand Group, its principals and a number of its employees, mainly of New South Wales laws (particularly provisions of the Crimes Act and of the Companies Act) relating to the fraudulent conduct of company business. The Commission also found evidence to indicate breaches of some Commonwealth laws (the Banking (Foreign Exchange) Act as it then applied and taxation legislation)." *Regulations as they*

4. In the proposed Ministerial Statement (Attachment A) the first sentence under the sub-heading "Other Illegal Activities" at the foot of p.8 should be deleted and replaced by words to the following effect -

"The Royal Commission did, however, find that there have been breaches by companies in the Nugan Hand Group, its principals and a number of its officers, mainly of New South Wales laws and, also of some Commonwealth laws."

Mr. Edwards.

*Informed Mr
A. Quinn
of connection by
telephone.
2/10/85*

*Mr. Gick
ATKpl.
142*

5. One other comment is made concerning the proposed Statement. In light of the difficulties in obtaining evidence to which the Commission refers (see esp. paras 3.1.3.-4) you might consider inserting on page 7, immediately following the statement of the terms of reference, a sentence to the following effect -

"In the Report the Commission makes a number of positive findings, but indicates that its work was hampered by -

- . the concealment or destruction of a number of relevant documents;
- . the impossibility of hearing evidence from Mr Nugan; and
- . the fact that evidence could not be obtained from Mr Hand."

Yours sincerely,

Sgd. John F. Ley

(JOHN F. LEY)
for Secretary

c.c. Secretary, Department of the Treasury
Director of Public Prosecutions
The Commissioner, Australian Taxation Office.

Recd 2/10/85
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DEPARTMENT OF THE SPECIAL MINISTER OF STATE

John Fisk ~~Mr~~ 2/10
Treasury

Copy for your information

~~Mr H. E. E. E.~~

Mr Fisk

With the Compliments of

Admin
2/10



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IN CONFIDENCE

DEPARTMENT OF THE SPECIAL MINISTER OF STATE

West Block, Canberra, A.C.T. 2600
Telephone: 70 2211

Mr G. Gleeson
Secretary
Premier's Department
State Office Block
SYDNEY NSW 2000

Dear Mr Gleeson

As you are aware the Final Report of the Royal Commission into the Activities of the Nugan Hand Group was presented to the Commonwealth and New South Wales Governments on 4 July 1985. I understand it has been agreed in discussions between officers of our Departments that some deletions from the report will be necessary prior to tabling in the two Parliaments in order to avoid prejudice to pending prosecutions or fair trial.

Attached for your consideration is a list of proposed deletions as agreed between Commonwealth officials.

I think you would agree it is highly desirable that the report be tabled in the two Parliaments during the current sittings. Since some four weeks will be required for final preparation of the report, it would be appreciated if you could provide me with a formal response to the proposed deletions within the next few days. Following that response, Commonwealth officials will seek final approval for the deletions from the Commonwealth Attorney-General and the Special Minister of State.

Yours sincerely

A.D. McGAURR
Secretary

Mr. Gleeson

Proposed Deletions for Publication of Nugan Hand Royal Commission
Final Report

Prejudice to fair trial of Moloney

- 2.48.12 delete paragraph plus endnote 28
- 2.74.6 delete name (x 2) and reference to profile and endnote 11
- 3.8.38 delete paragraph and endnotes 66, 67, 68, 69
- 3.8.44 delete name and endnote 83
- 3.8.46 delete last sentence and endnote 85
- 3.9.7-108 delete the paragraphs and endnotes 5-188

Prejudice to fair trial of Swan

- 2.70.3 delete 5th and 6th sentences and endnotes 5 and 6
- 2.70.5 delete 5th and 6th sentences and endnotes 8-11
- 2.70.7 delete paragraph, and endnotes 13 & 14
- 3.9.7-108 delete the paragraphs and endnotes 5-188

Prejudice to prosecution of Ward

- 4.2.17 delete paragraph

Recommended by Royal Commissioner

- 10.3-10.208 delete paragraphs plus endnotes 1-260



Recd 30/9/85. 138

DEPARTMENT OF THE SPECIAL MINISTER OF STATE

West Block, Canberra, A.C.T. 2600
Telephone: 70 2211

The Secretary
Department of the Treasury
Treasury Building
Parkes Place
PARKES ACT 2600

ADF

Attention: Mr J. Fisk

NUGAN HAND FINAL REPORT

Attached for final comments is a draft Cabinet Submission on the above report, taking into account previous comments.

*Lodged
Friday
Consider
it.*

2. It is expected that detailed agreement on the deletions to be made will not be achieved until some time next week as the NSW Government has yet to consider deletions recommended by A-G's on 27 September. However, we still propose to lodge the Submission on 4 October, making it clear to Cabinet that the deletions will be agreed by the time Cabinet considers the matter. *(References to the deletions are to be deleted)*

3. We propose to seek the approval of the Special Minister of State tomorrow (1 October 1985). Your comments would therefore be appreciated by midday tomorrow. Contact officer is A Quinn on 702480.

M F Domney
M F Domney
A/g Assistant Secretary
Organised Crime Policy Branch

30 September 1985

Mr. Sepren
Mr. Edwards

— As noted in my Note for File, I suggest a slight change to last para of draft Ministerial Statement. I am preparing a draft briefing memo to Iss re this submission. For urgent advice, please (by midday Tues.)

ADF 30/9

Submission No.

FOR CABINET

Copy No.

Title	GOVERNMENT'S RESPONSE TO FINAL REPORT OF STEWART ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP
Minister	
Purpose/Issues	To seek Ministers' approval of the principles to be applied to deletions to be made in the text for tabling purposes, and the text of the Ministerial Statement to be made by the Special Minister of State including the Government's response to the recommendations contained in the Report.
Relation to existing policy	Deletions are consistent with past practice in relation to protection of fair trial. Government's response to recommendations is in keeping with current review of Royal Commissions Act and other relevant legislation.
Legislation involved	Nil at this stage.
Urgency: Critical/significant dates	Report needs to be tabled before the end of the current sittings to avoid criticism of Government inaction.
Consultation: Ministers/Depts consulted	Attorney-General's Department, Office of the Director of Public Prosecutions, Australian Taxation Office, Australian Federal Police and Departments of the Prime Minister and Cabinet and the <u>Treasury</u> .
Is there agreement?	Yes
Cost	
. this fiscal year	Nil
. year 2	Nil
. year 3	Nil

Implications of proposals

Not applicable

social

Not applicable

economic

Not applicable

environmental

Not applicable

women

Not applicable

employment

administrative

Proposed action in relation to Royal Commissions Act, tax havens, judicial assistance treaties and companies legislation will improve law enforcement administration.

other

Not applicable

Wider consultation

state or foreign governments

The New South Wales Government has been consulted and is in agreement on the proposed deletions to the text of the Report.

unions and industry bodies

Not applicable

other special interest groups

Not applicable

What general or sectional support can be expected?

General support could be expected for measures taken as a result of the Royal Commission to strengthen legislation against criminal activities.

What criticism is anticipated and how will it be answered?

None expected, although there may be comment on deletions from the Report. This may be answered by reference to the need to avoid prejudice to prosecutions/fair trial.

Timing and handling of announcement of decision

Ministerial Statement to the Parliament during the current sittings (see Attachment A, page 6)

CABINET-IN-CONFIDENCE

BACKGROUND

On 4 July 1985 Mr Justice Stewart submitted to the Government the Final Report of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group. The Royal Commission was set up in 1983 as an extension of the terms of reference of the Stewart Royal Commission into Drug Trafficking.

2. The Commissioner had already presented two interim reports:

- Interim Report No. 1 concluded that there had not been improper interference with the investigations of the former Federal Narcotics Bureau and that, although the decision to cease investigation of the Nugan Hand Group invited criticism, no member of the Bureau had behaved dishonestly or improperly; and
- Interim Report No. 2 concluded that there had been no breaches in the law by the Nugan Hand Group in its relations with local Government authorities in New South Wales apart from the publication of false accounts and the failure to hold the requisite dealer's licence.

3. The Final Report concludes that there is no evidence to support allegations that the Nugan Hand Group was directly involved in:

- drug trafficking;
- arms dealing; or
- dealings with the CIA.

4. The Commission did find evidence of breaches by the Nugan Hand Group of Commonwealth and State laws relating to the fraudulent conduct of company business (for example, tax avoidance, breaches^s of exchange controls, breaches of the Companies Act). The Commission

as they then applied

CABINET-IN-CONFIDENCE

CABINET-IN-CONFIDENCE

has made no recommendations as to prosecutions but has passed information relating to breaches of laws to the relevant law enforcement bodies.

CONSIDERATION OF THE ISSUES

Deletions

5. Deletions to the report are proposed to minimise, as far as is reasonably possible, prejudice to investigations, prosecutions or fair trial. The NSW Government has requested some deletions for similar reasons. There has been considerable discussion between relevant agencies on the extent to which deletions should be made in a report which is liberally sprinkled with names of persons who have not been found guilty of an offence, bearing in mind also that publication of the report with large-scale deletions might render it largely incomprehensible and could attract considerable criticism and add to speculation. Mr Justice Stewart has recommended for deletion only Part 10 of the report, containing his assessment of persons who appear to have committed criminal offences. The Attorney-General and I consider that some further deletions are necessary to protect the rights of particular individuals to a fair trial. The specific parts to be deleted have been agreed between relevant Departments and also with the NSW Government. A marked copy of the report showing all proposed deletions is available in the Cabinet office.

Response to Recommendations

6. The proposed Statement at Attachment A, page 6 , sets out the Government's response to the recommendations contained in the report, noting action under way or proposed. The contents of the Statement have been cleared by relevant Departments.

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CABINET-IN-CONFIDENCE

Tabling

7. As the Royal Commission was also operating under Letters Patent from the Governor of New South Wales, the Final Report was presented to both Governments. It is proposed that it be tabled in the NSW Parliament on the same day as it is tabled in the Federal Parliament, during the current sittings.

RECOMMENDATION

8. I recommend that Cabinet:

- (a) approve the principle that deletions be made from the Final Report of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group of material which could prejudice prosecutions or fair trial;
- (b) note that the Special Minister of State and Attorney-General will agree on the detail of the deletions in consultation with the New South Wales authorities; and
- (c) approve that a statement along the lines of the draft at Attachment A be made for presentation of the Report to the Parliament as soon as possible during the current sittings.

CABINET-IN-CONFIDENCE

ATTACHMENT A

CABINET-IN-CONFIDENCE

NUGAN HAND ROYAL COMMISSION MINISTERIAL STATEMENT

For the information of Honourable Members, I present the final report of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group conducted by Mr Justice Stewart. I seek leave to make a statement on the report.

On 28 March 1983 the terms of reference of the Royal Commission of Inquiry into Drug Trafficking were extended to allow the Royal Commissioner, Mr Justice Stewart, to inquire into activities of the Nugan Hand Group of companies and related matters.

Interim Reports

The Royal Commissioner has since submitted two interim reports. Interim Report No. 1 was presented to the Government on 13 October 1983 and was tabled in the Commonwealth Parliament on 6 December 1983. This report dealt with the allegations of improper interference with the investigations of the former Federal Narcotics Bureau, that is, terms of reference (e), (f) and (g) of the Letters Patent issued by the Governor-General. The Commission found no evidence to support allegations of improper interference with the investigations of the Federal Narcotics Bureau or of dishonest or improper behaviour on the part of any member of the Bureau.

The second Interim Report was presented to both the Commonwealth and New South Wales Governments on 13 December 1984 and tabled in the Commonwealth and New South Wales Parliaments on 20 March 1985. This report concentrated on terms (b), (c) and (d) contained in both the Commonwealth and New South Wales terms of reference and considered whether there had been any contravention of New South Wales or Commonwealth laws by the Nugan Hand group in its relations with local Government authorities in New South Wales.

CABINET-IN-CONFIDENCE

CABINET-IN-CONFIDENCE

The Royal Commissioner found that Nugan Hand Ltd had published false accounts to the Councils and did not have the requisite dealer's licence, but that apart from these matters there was no evidence to support any further allegations.

Final Report

The Report I am tabling today, which is also being tabled in the New South Wales Parliament, is the Final Report of the Royal Commission dealing with the terms of reference not covered by the earlier reports (term of reference (a) of both Letters Patent), namely:

whether the Nugan Hand Group engaged in activities involving contravention of laws of the Commonwealth [or New South Wales] (in particular, laws relating to the importation, exportation or possession of drugs or armaments or laws relating to exchange control).

Drug Trafficking Allegations

Honourable Members will recall that from 1977 onwards allegations were made that the Nugan Hand Group was involved in drug trafficking. The Royal Commissioner inquired into these allegations and concluded that there was no evidence to support assertions that the Nugan Hand Group was involved in the importation, distribution or financing of the drug trade. In addition, with respect to the Nugan Hand office opened in Chiang Mai, Thailand, the Commission found that there was "no evidence to support the allegation that the office in Chiang Mai was established to attract deposits from drug producers of the so-called 'Golden Triangle'".

This is not to say that Messrs Nugan and Hand did not provide financial services to persons associated with the drug trade. The Royal Commissioner points out that Nugan and Hand were prepared to

CABINET-IN-CONFIDENCE

accept cash deposits through their companies regardless of their source and with the assurance that no questions would be asked concerning their source.

Arms Dealings

Several previous inquiries, including those conducted by the NSW Corporate Affairs Commission, the Commonwealth/NSW Joint Task Force on Drug Trafficking, and the Costigan Royal Commission referred to the Nugan Hand Group's possible involvement in arms dealings and recommended further investigations. This Royal Commission was able to look more closely into the possible arms connection and found no evidence to support the allegations. Several attempts to initiate arms deals are instanced but on each occasion the attempt came to nothing.

CIA Involvement

The Royal Commission inquired into an allegation that the Nugan Hand Group was used by and/or used the CIA. The Commission found this allegation to lack substance being based on the coincidence that the Nugan Hand Group employed several former US army personnel some of whom had had CIA connections at some stage. The US Senate Select Committee on Intelligence reached a similar conclusion in its inquiry and the Royal Commission's perusal of FBI files also showed nothing to support these allegations.

The Commission therefore found the allegations of Nugan Hand involvement in drug trafficking, arms deals and financing the CIA to be unsupported by the evidence.

Other Illegal Activities

The Royal Commission did, however, find considerable evidence of breaches by the Nugan Hand Group of Commonwealth and State laws. All of the

CABINET-IN-CONFIDENCE ATTACHMENT A

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criminal breaches identified are related to the fraudulent conduct of company business with respect to one or more companies in the Nugan Hand Group. The Commonwealth laws breached were tax laws, foreign exchange regulations and the Royal Commissions Act.

as they then applied

The Commission has already passed on a considerable amount of information to relevant law enforcement bodies (pursuant to section 6P of the Commonwealth Royal Commissions Act) which may lead to further criminal offences being identified by those bodies.

The Commission made its assessment of the involvement of particular individuals in criminal behaviour on the basis of the civil standard of proof and therefore made no recommendations with respect to prosecutions. However, the conclusions as to criminality need to be followed up and the Commission has passed information, which may lead to prosecutions, to the relevant law enforcement bodies.

Deletions

The Government is aware that a significant amount of the information contained in this Report has been published previously. However, following consultation with the NSW Government and on the advice of the Director of Public Prosecutions, the Attorney-General's Department and the Australian Federal Police, the Government has decided to delete some sections of the public version of the report that might otherwise prejudice prosecutions or fair trials. Mr Justice Stewart has been informed of the Government's decision.

Recommendations

The Royal Commission has made a number of policy recommendations which are currently under active consideration by the Government:

- (1) The Commission has recommended amendments to the Royal Commissions Act to provide for the application of the rules of

CABINET-IN-CONFIDENCE

natural justice to the proceedings of Royal Commissions and to provide for Royal Commission powers to remain in force following the delivery of Reports to enable the transfer, to relevant authorities, of material gathered by Royal Commissions.

A review of the Commonwealth Royal Commissions Act has been underway for some time and both of these issues will be considered before amendments are finalised. It is expected that this will be completed shortly.

- (2) The Royal Commission has also recommended that access to Cayman Island banking documentation be arranged through an agreement with the United Kingdom and that modern judicial assistance treaties be established between Australia and other appropriate countries. The Commonwealth Secretariat is preparing a proposed scheme for the tendering of mutual assistance in criminal matters as between member nations of the Commonwealth. Australia has specifically raised the question of access to Cayman Island documentation in this regard. It is hoped that the scheme will be settled at the Commonwealth Law Ministers' meeting in July 1986. Additionally it is intended to commence negotiating bilateral mutual assistance treaties with non-Commonwealth countries in the near future.
- (3) The Attorney-General is considering the Royal Commissioner's recommendations for legislation to provide for the specification of the duties of auditors and for the review, by the National Companies and Securities Commission, of the Companies Code. State Governments have important responsibilities in this area and it is proposed to hold discussions with them with a view to formulating an appropriate response.

CABINET-IN-CONFIDENCE

ATTACHMENT A

(4) Finally, the Treasurer ^[has set up] ~~is considering the Royal Commissioner's~~
~~recommendation that a committee be set up~~ to liaise with
professional bodies ~~with a view to~~ ^{consider} establishing criteria for
the issuing of Bankers' Opinions. This matter will also
require considerable consultation with the States and the
financial industry.

Last
sentence is
new but
seems OK to me.

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Received 27/9. 1/10
27/9

DEPARTMENT OF THE SPECIAL MINISTER OF STATE

John Fisk, ~~Mr~~

Copy as promised.

Mr. ~~Fisk~~

Mr. Edwards.

With the Compliments of

Adm

27/9

STEWART ROYAL COMMISSION REPORT ON NUGAN HAND

Detailed List of Proposed Deletions

HILL

- 2.2.66 delete name (once)
- 2.2.67 delete name (x 3)
- 2.2.68 delete name (x 2)
- 2.2.70 delete name (x 2)
- 2.2.71 delete name (x 2)
- 2.2.74 delete name (x 2)
- 2.2.76 delete words "and asked the situation".
- 2.2.77 delete name (once)
- 2.9.11 delete name in third sentence, the words "where he and Mr S.K. Hill (2.33) were the only two with any knowledge of the Group's financial situation."
- 2.10.2 delete name (x 2)
- 2.33.5 delete words following "April 1980" to end of para.
- 2.33.6 delete the para.
- 2.33.7
- 2.33.8 delete all but 1st sentence of para.
- 2.33.9 delete the paragraph.
- 2.33.10 delete 4th sentence and rest of para.
- 2.33.11 delete
- 2.33.12 delete 2nd sentence
- 2.33.13 delete words "and his role in the concealment and destruction of records are"
- 2.36.5 delete name (x 3)
- 2.52.4 delete name (once)
- 2.56.6 delete final sentence
- 2.64.2 delete 2nd and 3rd sentences
- 2.64.3 delete name (x 2)
- 2.65.9 delete name (once) and ref. to profile
- 2.71.5 delete name (x 2)
- 2.76.9 delete name
- 3.1.37 delete at least name (x 4) (but check other refs to Hill's refusal to give assurance elsewhere)

- 3.1.38 delete words - "who on the evidence in the Sydney Office"
- 3.2.19 delete last sentence of para
- 3.2.11 delete words "whose association with" to end of para
- 3.3.36 delete the sentence commencing on the top line to p.433
- 3.3.55 delete name (once)
- 3.4.25 delete name (x 3)
- 3.4.36 delete name
- 3.4.63 delete name
- 3.4.67 delete 2nd sentence
- 3.4.76 delete name (once)
- 3.4.77 delete name (once)
- 3.4.78 delete name (x 2) in 1st 2 sentences, and whole of last 2 sentences
- 3.4.92 delete name (once)
- 3.5.6. delete name (once)
- 3.5.27 delete name (once)
- Endnote 7 p. 510 - delete words from "although... 'anyone else'"
- 3.6.20 delete last sentence
- 3.6.39 delete name (x 3) but not from last sentence
- 3.7.2 delete name (once) and ref to profile.
- 3.7.6. delete para. except for 1st sentence
- 3.7.7. delete para.
- 3.7.8. delete para.
- 3.8.8. delete 2nd, 3rd and 4th sentences
- 3.8.9. delete name (once)
- 3.8.24 delete name (x 2) in 3rd and 4th sentences; also delete words " ... why didn't Hill know, why didn't Hill tell me"
- 3.8.25 delete name (once)
- 3.8.29 delete name (once)
- 3.8.32 delete name (x 2)
- 3.8.39 delete name (once), the words "that he had signed" in the second line, and the reference "(see 3.3.46)"
- 3.8.40 delete para
- 3.8.43 delete para
- 3.8.44 delete para
- 3.8.50 delete para
- 3.8.51 delete name (2nd and 3rd time appearing) and last 2 sentences

- 3.8.52 delete para
- 3.8.59 delete name (x 2)
- 3.8.69 delete name
- 3.8.80 delete name (x 3)
- 3.8.85 delete name in 1st line
- 3.8.90 delete name (x 3) in last sentence
- 3.8.91 delete name (once)
- 3.8.92 delete name (x 2)
- 3.8.93 delete name (x 4)
- 3.8.131 delete names Hill (once) and Moloney (once)
- 4.1.63 delete name (once)
- 4.1.68 delete last sentence
- 4.1.69 delete name in 1st and 2nd sentences and delete last sentence
- 4.1.70 delete name (x 4)
- 4.1.71 delete name (once)
- 4.1.72 delete name (x 3)
- 4.1.73 delete name (x 2)
- 4.1.74 delete name (once)
- 4.1.85 delete name (once)
- 4.1.88 delete name (once)
- Endnote 141 delete note
- 4.1.98 delete name (once)
- 4.1.101 delete name (x 3)
- 4.1.105 delete name (once)
- 4.2.14 delete name and ref. to profile
- 4.2.17 delete last sentence
- 4.2.76 delete name (once)
- 4.2.120 delete name (once)
- 4.2.121 delete name (once)
- 4.2.123 delete name in 1st sentence. Delete 2nd, 3rd and 4th sentences and relevant end notes. Delete name in last sentence
- 4.2.124 delete name (x 3)
- 4.2.125 delete names (x 2)
- 4.2.129 delete name (once)
- 4.2.130 delete words "and Mr Hill may have been present" and name in 2nd sentence
- 4.2.131 delete name (once)
- 4.2.133 delete para

- 4.134 delete name (x 2)
- 4.2.136 delete name (once)
- 4.2.138 delete para
- 4.2.139 delete para
- 4.2.140 delete name (x 2)
- 4.2.148 delete name (once)
- 4.2.161 delete name (once)
- 4.2.162 delete name (once)
- 4.2.166 delete name (once)
- 4.2.174 delete name (once)
- 4.5.16 delete name (once)
- 4.7.1. delete name (once)
- 4.7.4. delete para
- 4.7.5. delete name (once)
- 4.7.7 delete name (x 4)
- 4.7.8. delete name in first line and and, in 2nd and 3rd
lines delete "after Mr Hill in April 1975 and"
- 4.7.9 delete name (once)
- 4.7.10 delete name (x 3)
- 5.4 delete name (once) and ref. to profile
- 5.9 delete name (once)
- 5.16 delete name (once)
- 5.18 delete name (once)
- 5.23 delete name in 2nd line and "April" and "when Mr Hill
returned 4.7.7 - 4.7.8)"
- 5.25 delete name (once)
- 5.29 delete name (x 2)
- 5.33 delete name (once)
- 5.153 delete name (once)
- 6.43 delete name (x 3)
- 8.43 delete name and ref to profiles (x 2)
- 8.45 delete 1st sentence

Endnotes

Delete all endnotes referred to in passages deleted or partially deleted.

→ Mr Jensen

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Recd 27/9/41

DEPARTMENT OF THE SPECIAL MINISTER OF STATE

✓
A further page on Hill is
coming from the Attorney-General's
Department

With the Compliments of

A. Quinn

STEWART ROYAL COMMISSION REPORT ON NUGAN HAND

Detailed List of Proposed Deletions

MALONEY

- 2.48.12 delete paragraph plus end note 28
2.74.6 delete name (x 2) and reference to profile and
note 11
3.8.38 delete paragraph and relevant end notes
3.8.44 delete name and endnote 83
3.8.46 delete last sentence and endnote 85
3.9.21-108 delete the paragraphs and endnotes 66, 67, 68, 69

SWAN

- 2.70.3 delete 5th and 6th sentences and relevant end note
2.70.5 delete 5th and 6th sentences and relevant end note
2.70.7 delete paragraph, and endnotes 10, 13 & 14.
3.9.21-108 delete the paragraphs and endnotes 66, 67, 68, 69

STEWART ROYAL COMMISSION REPORT ON NUGAN HAND

Detailed List of Proposed Deletions

PART 10

- 10.3 delete reference to names Hill (once) and Brincat (once)
- 10.7 delete all words from "Second" to the end of the para.
- 10.11 delete
- 10.12 delete second sentence name Brincat (once)
- 10.13 delete names Hill (x 2) and Brincat (once)
- 10.15 delete names Hill (once), Brincat (once) and Shaw (once)
- 10/17 delete para.
- 10.20 omit the last sentence
- 10.23 omit the para
- 10.24 delete names Hill (x 2) and Brincat (x 2)
- 10.27 delete names Hill (x 3) and Brincat (x 2)
- 10.28 delete names Hill (once) and Brincat (once)
- 10.30 delete name Hill (once) and profile
- 10.32 delete name Hill (x 2)
- 10.34, 177 - 10 ~~34~~ 179 ^{delete all Hendy's para.} to "the provisions of"
- 10.181 delete 3rd sentence
- 10.186 delete para
- 10.190-208 *delete paras*

Endnotes

Delete all except 1-20 and 235, 237

delete paras

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F83/631

NOTE FOR FILE

STEWART ROYAL COMMISSION REPORT INTO NUGAN HAND -
GOVERNMENT'S RESPONSE

I attended (on an observer basis) a short OCLE Working Group (WG) meeting at DOSMOS on 23 September 1983 concerning the above. Other officers present were:

Mr M. Domney (Chairman)	DOSMOS
Ms A. Quinn	
Mr M. Hansen	AFP
Mr K. Vassarotti and one other	PM&C
Mr H. Woltring	AG's
Ms J. Jackson and one other	

Copies to:

- ② Mr Jepsen *30/9*
① Mr Edwards

2. Mr Domney advised the meeting that their Department proposed that their minister would table the Report in the week commencing 14 October 1985. To achieve this, it would be necessary to lodge the draft Cabinet Submission with the Cabinet Office by the end of this week or early next week.

3. Mr Domney circulated a schedule of proposed deletions from the Report (Attachment 1) which had been agreed with the NSW Government - advice was awaited from them in respect of Pollard and Scott-Kemmis. In response to Mr Domney's enquiry of those present, AFP advised that they were having discussions with the Reserve Bank over 'Yorkville Contra' matters (see AFP memorandum at Attachment 2) but as both parties were quite relaxed about the matter they did not propose any further deletions. Ms Quinn indicated that the ATO and DDP had advised they had no firm views on further deletions. I informed the meeting that as possible deletion of names did not involve any policy aspects as far as Treasury was concerned, we considered such deletions to be a matter for AG's and any other interested departments. PM&C appeared also not to have strong views. AG's however, indicated they considered further ~~proposed~~ deletions desirable and circulated a list of further deletions of substance (Attachment 3) which, after discussion, they agreed to quickly submit to the NSW Government. (It became evident

Mr Link
ATF.

6871f

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during the meeting that the Commonwealth was not, at this stage, making any investigations into any person mentioned in the report and was not charging and did not propose to charge any person with a breach of Commonwealth law; the deletions already agreed to by the WG covered references to persons, namely Hill, Swan and Maloney who had been, or were expected to be, committed for trial under NSW law.) Mr Woltring's view was that all matters which would be left to a jury to decide should be deleted to give accused persons a fair trial. It was agreed that the Attorney-General and Special Minister of State (and possibly the Prime Minister) should decide on the actual deletions to be made from the report.

4. The draft Cabinet Submission (23.9.85) distributed at the meeting (Attachment 4) was not fully considered - only a couple of aspects were discussed - however, a new draft (Attachment 5) was circulated on 24.9.85. I confirmed at the meeting that Treasury had the bankers' opinion recommendation in hand and that we would advise any change necessary to the DOSMOS wording in (4) of Attachment A, page 10, as follows:-

'(4) Finally, the Treasurer is considering the Royal Commissioner's recommendation that a committee be set up to liaise with professional bodies with a view to establishing criteria for the issuing of Bankers' Opinions.'

To more precisely indicate the current position, the above text might be amended to read:-

OLE ? ✓
'(4) Finally, the Treasurer has set up a committee to liaise with professional bodies to consider establishing criteria for the issuing of bankers' opinions.'

5. A reading of the draft Cabinet Submission and the revised version received on 24 September, 1985, indicates references to Treasury/Treasurer and aspects concerning the Treasurer's portfolio responsibilities (excluding tax matters) are on the cover sheet, in paragraph 6 of the Submission and in the proposed Ministerial statement on pages 7 to 10. The only reference which would seem to require our attention is the last paragraph on page 10 concerning the bankers' opinion recommendation (referred to in the previous paragraph).

6. The meeting concluded on the basis that:-

- . the WG would liaise further with the NSW Government on deletions to the Report;
- . a revised draft Cabinet Submission would be circulated (Attachment 5);

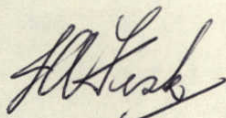
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3

- . the WG would consult OCLE on the draft Cabinet Submission later this week;
- . the WG would probably need to meet again at the end of the week to finalise the draft Submission.



J.A. Fisk
25 September, 1985

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Nugan Hand Royal Commission Final Report

Deletions Sub-Committee Meeting

23 September 1985

AGENDA

1. Timetable
2. Deletions Agreed to Date

<u>Paragraph</u>	<u>Page</u>	<u>Reason</u>
<u>Volume 1</u>		
2.33.8 - 2.33.9	184	NSW -
2.48 - 2.48.12	219-222	NSW -
- Delete all mention of Maloney and Swan?		
- endnotes?		
2.70 - 2.70.10	271-273	NSW -
last sentence para 3.6.20	511	NSW -
3.9 - 3.9.108	573-608	NSW -
<u>Volume 2</u>		
4.2.17	682	DPP - prejudice to prosecution
4.5.11	767-768	NSW -
- Why Pollard?		
4.7.1. - 4.7.8	801-803 (804?)	NSW -
- Scott-Kemmis - CAC to prosecute? If not, leave in.	NSW to advise before a decision is made	
10.1 - 10.208 plus endnotes	1001- 1092	NSW & C/W
	(but not 1st 2 paras?)	

3. Cabinet Submission

20 September 1985

The Secretary
Department of the Special Minister of State
West Block
PARKES ACT 2600

Attention: Mr M. DOMNEY

STEWART ROYAL COMMISSION
REPORT ON NUGAN HAND

Thank you for sending to us a copy of the draft index for the abovementioned report.

We have checked the names in the draft index against our BCI indices and advise that no individual or corporate identity is currently the subject of AFP investigation. Inquiries with the Commonwealth/NSW Joint Task Force have also given a negative result.

It is the AFP's view, therefore, that at this stage, with the exception of parts 10.3 to 10.208 inclusive and the Endnotes of Chapter 10, there is no reason why the report should not be tabled in the Parliament.

We point out, however, that the Royal Commission, under section 6P of the Royal Commissions Act, has recently passed to the AFP for investigation matters relating to the facility which the Nugan Hand Group termed 'Yorkville Contra'. As explained in recent discussions, the AFP is liaising with the Reserve Bank regarding 'Yorkville Contra' and also with the Australian Taxation Office which is carrying out its own investigation.

It will be some time before AFP investigations into 'Yorkville Contra' are finalised.


(Brian C. Bates)
Assistant Commissioner
INVESTIGATIONS
for
R.A. Grey
Commissioner of Police

DELETIONS OF SUBSTANCE

SWAN

2.70 - 2.70.10 3.9.11 →

MALONEY

2.48 - 2.48.12 2.74.6 3.8.33-4 3.8.38 3.8.44
3.8.46 3.9.11 →

HILL

2.2.66-68 2.2.74 2.2.76 2.9.11 2.10.2
2.33 - 2.33.15 2.36.5 2.52.4 2.64.2-3 2.65.9
2.71.5 2.76.9

3.1.37-38 3.2.11 3.3.36 3.3.55 3.4.25 3.4.35-36
3.4.63 3.4.67 3.4.76-78 3.4.92 3.5.6 3.5.27
3.6.20 3.6.39 3.7.2. 3.7.6-8 3.8.8-9 3.8.24-25
3.8.29-30 3.8.32 3.8.39-40 3.8.43-44 3.8.50-52
3.8.59 3.8.69 3.8.80 3.8.85 3.8.90-91 3.8.131
4.1.63 4.1.68-74 4.1.85 4.1.88 4.1.98 4.1.101
4.1.105 4.2.14 4.2.17 4.2.76 4.2.120-125
4.2.129-131 4.2.133-4 4.2.135 4.2.136 4.2.138-140
4.2.148 4.2.161-162 4.2.166 4.2.174 4.5.16
4.7.1. 4.7.5. 4.7.7-10 5.4 5.9 5.16 5.18
5.23 5.25 5.29 5.33 5.153 6.43 8.43 8.45

NSW. : Not ~~concluded~~ yet re above.

Ms. Susan Quinn informed me 1/10/85 that references above to Hill are to be deleted. The NSW authorities are still to advise re Scott-Kemmis & a number of other persons.

[Signature]
1/10

FOR CABINET

Title

GOVERNMENT'S RESPONSE TO FINAL REPORT OF STEWART
ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES
OF THE NUGAN HAND GROUP

Minister

Purpose/Issues

*as agreed
by AG, SMOS &
Parliament P.M.*

To seek Ministers' approval of the principles to
be applied to deletions to be made in the text
for tabling purposes, and the text of the
Ministerial Statement to be made by the Special
Minister of State including the Government's
response to the recommendations contained in the
Report.

Relation to
existing
policy

Deletions are consistent with past practice in
relation to protection of fair trial. Government's
response to recommendations is in keeping with
current review of Royal Commissions Act and other
relevant legislation.

Legislation
involved

Nil at this stage.

Urgency:
Critical/significant
dates

Report needs to be tabled before the end of the
current sittings to avoid criticism of Government
inaction.

Consultation:
Ministers/Depts
consulted

Is there
agreement?

Attorney-General's Department, Office of the Director
of Public Prosecutions, Australian Taxation Office
and Departments of the Prime Minister and Cabinet and
the Treasury.

Cost
this fiscal year

Nil

year 2

Nil

year 3

Nil

Implications of proposals

. social

Not applicable

. economic

Not applicable

. environmental

Not applicable

. women

Not applicable

. employment

Not applicable

. administrative

. other ✓

Proposed action in relation to Royal Commissions Act, tax havens, judicial assistance treaties and companies legislation will improve law enforcement administration.

Not applicable

Wider consultation

. state or foreign governments ✓

The New South Wales Government has been consulted and is in agreement on the proposed deletions to the text of the Report.

. unions and industry bodies ✓

Not applicable

. other special interest groups ✓

Not applicable

What general or sectional support can be expected? ✓

General support could be expected for measures taken as a result of the Royal Commission to strengthen legislation against criminal activities.

What criticism is anticipated and how will it be answered? ✓

None expected, although there may be comment on deletions from the Report. This may be answered by reference to the need to protect prosecutions/fair trial.

Timing and handling of announcement of decision ✓

Ministerial Statement to the Parliament during the current sittings (see Attachment A, page 6)

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BACKGROUND

On 4 July 1985 Mr Justice Stewart submitted to the Government the Final Report of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group. The Royal Commission was set up in 1983 as an extension of the terms of reference of the Stewart Royal Commission into Drug Trafficking.

2. The Commissioner had already presented two interim reports:

- . Interim Report No. 1 concluded that there had not been improper interference with the investigations of the former Federal Narcotics Bureau and that, although the decision to cease investigation of the Nugan Hand Group invited criticism, no member of the Bureau had behaved dishonestly or improperly; and
- . Interim Report No. 2 concluded that there had been no breaches in the law by the Nugan Hand Group in its relations with local Government authorities in New South Wales apart from the publication of false accounts and the failure to hold the requisite dealer's licence.

3. The Final Report concludes that there is no evidence to support allegations that the Nugan Hand Group was directly involved in:

- . drug trafficking;
- . arms dealing; or
- . dealings with the CIA.

4. The Commission did find evidence of breaches by the Nugan Hand Group of Commonwealth and State laws relating to the fraudulent conduct of company business. The Commission has made no

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recommendations as to prosecutions but has passed information relating to breaches of laws to the relevant law enforcement bodies.

CONSIDERATION OF THE ISSUES

Deletions

5. Deletions to the report are proposed to minimise, as far as is reasonably possible, prejudice to investigations, prosecutions or fair trial. The NSW Government has requested some deletions for similar reasons. There has been considerable discussion between relevant agencies on the extent to which these principles can be applied to a report which is liberally sprinkled with names and value judgments, bearing in mind also that publication of the report with large-scale deletions might render it largely incomprehensible and could attract significant criticism of the Government. Ministers should note that Mr Justice Stewart has recommended for deletion only Part 10 of the report, containing his assessment of breaches of the law. The Attorney-General and I consider that some further deletions are necessary to protect the rights of particular individuals to a fair trial. The specific parts to be deleted have been agreed with the NSW Government.

Response to Recommendations

6. The proposed Statement at Attachment A, page 6, sets out the Government's response to the recommendations contained in the report, noting action under way or proposed. The contents of the Statement have been cleared by relevant Departments.

Tabling

7. As the Royal Commission was also operating under Letters Patent from the Governor of New South Wales, the Final Report was

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presented to both Governments. It is proposed that it be tabled in the NSW Parliament on the same day as it is tabled in the Federal Parliament, during the current sittings.

RECOMMENDATION

8. I recommend that Cabinet approve:

- (a) ✓ the principle that deletions be made from the Final Report of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group of material which would prejudice investigations, prosecutions or fair trial; and
- ✓ (b) the text of the Ministerial Statement at Attachment A for presentation of the Report to the Parliament as soon as possible during the current sittings.

CABINET-IN-CONFIDENCE

NUGAN HAND ROYAL COMMISSION MINISTERIAL STATEMENT

For the information of Honourable Members, I present the final report of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group conducted by Mr Justice Stewart. I seek leave to make a statement on the report.

On 28 March 1983 the terms of reference of the Royal Commission of Inquiry into Drug Trafficking were extended to allow the Royal Commissioner, Mr Justice Stewart, to inquire into activities of the Nugan Hand Group of companies and related matters.

Interim Reports

The Royal Commissioner has since submitted two interim reports. Interim Report No. 1 was presented to the Government on 13 October 1983 and was tabled in the Commonwealth Parliament on 6 December 1983. This report dealt with the allegations of improper interference with the investigations of the former Federal Narcotics Bureau, that is, terms of reference (e), (f) and (g) of the Letters Patent issued by the Governor-General. The Commission found no evidence to support allegations of improper interference with the investigations of the Federal Narcotics Bureau or of dishonest or improper behaviour on the part of any member of the Bureau.

The second Interim Report was presented to both the Commonwealth and New South Wales Governments on 13 December 1984 and tabled in the Commonwealth and New South Wales Parliaments on 20 March 1985. This report concentrated on terms (b), (c) and (d) contained in both the Commonwealth and New South Wales terms of reference and considered whether there had been any contravention of New South Wales or Commonwealth laws by the Nugan Hand group in its relations with local Government authorities in New South Wales.

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The Royal Commissioner found that Nugan Hand Ltd had published false accounts to the Councils and did not have the requisite dealer's licence, but that apart from these matters there was no evidence to support any further allegations.

Final Report

The Report I am tabling today, which is also being tabled in the New South Wales Parliament, is the Final Report of the Royal Commission dealing with the terms of reference not covered by the earlier reports (term of reference (a) of both Letters Patent), namely:

whether the Nugan Hand Group engaged in activities involving contravention of laws of the Commonwealth [or New South Wales] (in particular, laws relating to the importation, exportation or possession of drugs or armaments or laws relating to exchange control).

Drug Trafficking Allegations

Honourable Members will recall that from 1977 onwards allegations were made that the Nugan Hand Group was involved in drug trafficking. The Royal Commissioner inquired into these allegations and concluded that there was no evidence to support assertions that the Nugan Hand Group was involved in the importation, distribution or financing of the drug trade. In addition, with respect to the Nugan Hand office opened in Chiang Mai, Thailand, the Commission found that there was "no evidence to support the allegation that the office in Chiang Mai was established to attract deposits from drug producers of the so-called 'Golden Triangle'".

This is not to say that Messrs Nugan and Hand did not provide financial services to persons associated with the drug trade. The Royal Commissioner points out that Nugan and Hand were prepared to

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ATTACHMENT A

accept cash deposits through their companies regardless of their source and with the assurance that no questions would be asked concerning their source.

Arms Dealings

Several previous inquiries, including those conducted by the NSW Corporate Affairs Commission, the Commonwealth/NSW Joint Task Force on Drug Trafficking, and the Costigan Royal Commission referred to the Nugan Hand Group's possible involvement in arms dealings and recommended further investigations. This Royal Commission was able to look more closely into the possible arms connection and found no evidence to support the allegations. Several attempts to initiate arms deals are instanced but on each occasion the attempt came to nothing.

CIA Involvement

The Royal Commission inquired into an allegation that the Nugan Hand Group was used by and/or used the CIA. The Commission found this allegation to lack substance being based on the coincidence that the Nugan Hand Group employed several former US army personnel some of whom had had CIA connections at some stage. The US Senate Select Committee on Intelligence reached a similar conclusion in its inquiry and the Royal Commission's perusal of FBI files also showed nothing to support these allegations.

The Commission therefore found the allegations of Nugan Hand involvement in drug trafficking, arms deals and financing the CIA to be unsupported by the evidence.

Other Illegal Activities

The Royal Commission did, however, find considerable evidence of breaches by the Nugan Hand Group of Commonwealth and State laws. All of the

CABINET-IN-CONFIDENCE

CABINET-IN-CONFIDENCE ATTACHMENT A

88
105

✓ Criminal breaches identified are related to the fraudulent conduct of company business with respect to one or more companies in the Nugan Hand Group. The Commonwealth laws breached were tax laws, foreign exchange regulations and the Royal Commissions Act.

✓ The Commission has already passed on a considerable amount of information to relevant law enforcement bodies (pursuant to section 6P of the Commonwealth Royal Commissions Act) which may lead to further criminal offences being identified by those bodies.

✓ The Commission made its assessment of the involvement of particular individuals in criminal behaviour on the basis of the civil standard of proof and therefore made no recommendations with respect to prosecutions. However, the conclusions as to criminality need to be followed up and the Commission has passed information, which may lead to prosecutions, to the relevant law enforcement bodies.

Deletions

✓ The Government is aware that a significant amount of the information contained in this Report has been published previously. However, following consultation with the NSW Government and on the advice of the Director of Public Prosecutions, the Attorney-General's Department and the Australian Federal Police, the Government has decided to delete some sections of the public version of the report that might otherwise prejudice prosecutions or fair trials. Mr Justice Stewart has been informed of the Government's decision.

Recommendations

Turning to the recommendations of the Royal Commission, the following action is being taken by the Government:

- (1) The Commission has recommended amendments to the Royal Commissions Act to provide for the application of the rules of

CABINET-IN-CONFIDENCE

CABINET-IN-CONFIDENCE

✓ natural justice to the proceedings of Royal Commissions and to provide for Royal Commission powers to remain in force following the delivery of Reports to enable the transfer, to relevant authorities, of material gathered by Royal Commissions.

A review of the Commonwealth Royal Commissions Act has been underway for some time and both of these issues will be considered before amendments are finalised. It is expected that this will be completed shortly.

- ✓ (2) The Royal Commission has also recommended that access to Cayman Islands banking documentation be arranged through an agreement with the United Kingdom and that modern judicial assistance treaties be established between Australia and other appropriate countries. The Commonwealth, in consultation with the States and the Northern Territory, is currently drafting model treaties, for negotiation with Commonwealth and non-Commonwealth countries, regarding mutual assistance in criminal matters.

- ✓ (3) The Attorney-General is considering the Royal Commissioner's recommendations for legislation to provide for the specification of the duties of auditors and for the review, by the National Companies and Securities Commission, of the Companies Code. It is proposed to hold discussions with the States.

- (4) Finally, the Treasurer is considering the Royal Commissioner's recommendation that a committee be set up to liaise with professional bodies with a view to establishing criteria for the issuing of Bankers' Opinions.

Might be amended to read (along the lines of):

a working group of officials has been established
Finally, the Treasurer has set up a committee to liaise with
the banking sector with a view to
professional bodies to consider establishing criteria for the
issuing of bankers opinions
current practice in relation
to review

Submission No.

Copy No.

FOR CABINET

Title

GOVERNMENT'S RESPONSE TO FINAL REPORT OF STEWART
ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES
OF THE NUGAN HAND GROUP

Minister

SMOS
A.G.

Purpose/Issues

To seek Ministers' approval of the deletions to be
made in the text for tabling purposes, and the text
of the Ministerial Statement to be made by the
Special Minister of State including the
Government's response to the recommendations
contained in the Report.

Revised

Relation to
existing
policy

→ right to fair trial...
Deletions are consistent with past practice in
relation to protection of individual civil liberties
and prejudice to law enforcement operations and
prosecutions. Government's response to recommendation
is in keeping with current review of Royal Commissions
Act and other relevant legislation

Revised

Legislation
involved

Nil, at this stage

Urgency:
Critical/significant
dates

Report needs to be tabled before the end of the
current sittings to avoid criticism of Government
inaction.

Consultation:
Ministers/Depts
consulted

Attorney-General's Department, Office of the Director
of Public Prosecutions, Australian Taxation Office
and Departments of the Prime Minister and Cabinet and
the Treasury.

Is there
agreement?

X

Cost
this fiscal year

Nil

year 2

Nil

year 3

Nil

Implications of proposals

Not applicable

. social

Not applicable

. economic

Not applicable

. environmental

Not applicable

. women

Not applicable

. employment

~~Not applicable~~

. administrative

. other

Proposed action in relation to Royal Commissions Act, tax havens, judicial assistance treaties and companies legislation will improve law enforcement administration.

Not applicable

Wider consultation

. state or foreign governments

The New South Wales Government has been consulted and is in agreement on the proposed deletions to the text of the Report.

. unions and industry bodies

Not applicable

. other special interest groups

Not applicable

What general or sectional support can be expected?

General support could be expected for measures taken as a result of the Royal Commission to strengthen legislation against criminal activities.

What criticism is anticipated and how will it be answered?

Needs amendment
40/7

None expected, although there may be comment on deletions from the Report. This may be answered by reference to civil liberties and the need to protect police investigations and prosecutions.

Timing and handling of announcement of decision

Ministerial Statement to the Parliament during the current sittings (see Attachment A, page 6)

BACKGROUND

On 4 July 1985 Mr Justice Stewart submitted to the Government the Final Report of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group. The Royal Commission was set up in 1983 as an extension of the terms of reference of the Stewart Royal Commission into Drug Trafficking.

2. The Commissioner had already presented two interim reports:

- Interim Report No. 1 concluded that there had not been improper interference with the investigations of the former Federal Narcotics Bureau and that, although the decision to cease investigation of the Nugan Hand Group invited criticism, no member of the Bureau had behaved dishonestly or improperly; and
- Interim Report No. 2 concluded that there had been no breaches in the law by the Nugan Hand Group in its relations with local Government authorities in New South Wales apart from the publication of false accounts and the failure to hold the requisite dealer's licence.

3. The Final Report concludes that there is no evidence to support allegations that the Nugan Hand Group was directly involved in:

- drug trafficking;
- arms dealing; or
- dealings with the CIA.

4. The Commission did find evidence of breaches by the Nugan Hand Group of Commonwealth and State laws relating to the fraudulent conduct of company business. The Commission has made no

✓ recommendations as to prosecutions but has passed information relating to breaches of laws to the relevant law enforcement bodies. ✓

CONSIDERATION OF THE ISSUES

Deletions

X. Revised
5. Deletions to the report are proposed to minimise, as far as is reasonably possible, ~~prejudice to investigations~~?, prosecutions or fair trial or damage to reputations of persons against whom no charge has been laid or is likely to be laid. The NSW Government has requested some deletions for similar reasons. There has been considerable discussion between relevant agencies on the extent to which these principles can be applied to a report which is liberally sprinkled with names and value judgments, bearing in mind also that publication of the report with large-scale deletions might render it largely incomprehensible and could attract significant criticism of the Government. A list of the deletions proposed and the reasons for each is at Attachment B, page 11.

Response to Recommendations

✓ 6. The proposed Statement at Attachment A, page 6, sets out the Government's response to the recommendations contained in the report, noting action under way or proposed. The contents of the Statement have been cleared by relevant Departments.

Tabling

✓ 7. As the Royal Commission was also operating under Letters Patent from the Governor of New South Wales, the Final Report was presented to both Governments. It is proposed that the report be tabled in the NSW Parliament on the same day as it is tabled in the Federal Parliament, during the current sittings.

RECOMMENDATION

8. I recommend that Cabinet approve:

- Revised*
- (a) the proposed deletions from the Final Report of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group at Attachment B; and
 - (b) the text of the Ministerial Statement at Attachment A for presentation of the Report to the Parliament as soon as possible during the current sittings.
- ✓

SMOS
To be cleared by
PM to the

A.A.

ATTACHMENT A

81
98

For the information of Honourable Members, I present the final report of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group conducted by Mr Justice Stewart. I seek leave to make a statement on the report.

On 28 March 1983 the terms of reference of the Royal Commission of Inquiry into Drug Trafficking were extended to allow the Royal Commissioner, Mr Justice Stewart, to inquire into activities of the Nugan Hand Group of companies and related matters.

Interim Reports

The Royal Commissioner has since submitted two interim reports. Interim Report No. 1 was presented to the Government on 13 October 1983 and was tabled in the Commonwealth Parliament on 6 December 1983. This report dealt with the allegations of improper interference with the investigations of the former Federal Narcotics Bureau, that is, terms of reference (e), (f) and (g) of the Letters Patent issued by the Governor-General. The Commission found no evidence to support allegations of improper interference with the investigations of the Federal Narcotics Bureau or of dishonest or improper behaviour on the part of any member of the Bureau.

The second Interim Report was presented to both the Commonwealth and New South Wales Governments on 13 December 1984 and tabled in the Commonwealth and New South Wales Parliaments on 20 March 1985. This report concentrated on terms (b), (c) and (d) contained in both the Commonwealth and New South Wales terms of reference and considered whether there had been any contravention of New South Wales or Commonwealth laws by the Nugan Hand group in its relations with local Government authorities in New South Wales.

The Royal Commissioner found that Nugan Hand Ltd had published false accounts to the Councils and did not have the requisite dealer's licence, but that apart from these matters there was no evidence to support any further allegations.

Final Report

The Report I am tabling today, which is also being tabled in the New South Wales Parliament, is the Final Report of the Royal Commission dealing with the terms of reference not covered by the earlier reports (term of reference (a) of both Letters Patent), namely:

whether the Nugan Hand Group engaged in activities involving contravention of laws of the Commonwealth [or New South Wales] (in particular, laws relating to the importation, exportation or possession of drugs or armaments or laws relating to exchange control).

Drug Trafficking Allegations

Honourable Members will recall that from 1977 onwards allegations were rife that the Nugan Hand Group was involved in drug trafficking. The Royal Commissioner inquired into these allegations and concluded that there was no evidence to support assertions that the Nugan Hand Group was involved in the importation, distribution or financing of the drug trade. In addition, with respect to the Nugan Hand office opened in Chiang Mai, Thailand, the Commission found that there was "no evidence to support the allegation that the office in Chiang Mai was established to attract deposits from drug producers of the so-called 'Golden Triangle'".

This is not to say that Messrs Nugan and Hand did not provide financial services to persons associated with the drug trade. The Royal Commissioner points out that Nugan and Hand were prepared to

29
9/6

✓ accept cash deposits through their companies regardless of their source and with the assurance that no questions would be asked concerning their source.

Arms Dealings

✓ Several previous inquiries, including those conducted by the NSW Corporate Affairs Commission, the Commonwealth/NSW Joint Task Force on Drug Trafficking, and the Costigan Royal Commission referred to the Nugan Hand Group's possible involvement in arms dealings and recommended further investigations of this. This Royal Commission was able to look more closely into the possible arms connection and found no evidence to support the allegations. Several attempts to initiate arms deals are instanced but on each occasion the attempt came to nothing.

CIA Involvement

✓ The Royal Commission inquired into an allegation that the Nugan Hand Group was used by and/or used the CIA. The Commission found this allegation to lack substance being based on the coincidence that the Nugan Hand Group employed several former US army personnel some of whom had had CIA connections at some stage. The US Senate Select Committee on Intelligence reached a similar conclusion in its inquiry and the Royal Commission's perusal of FBI files also showed nothing to support these allegations.

✓ The Commission therefore found the allegations of Nugan Hand involvement in drug trafficking, arms deals and financing the CIA to be unsupported by the evidence.

Other Illegal Activities

The Royal Commission did, however, find considerable evidence of breaches by the Nugan Hand Group of Commonwealth and State laws. All of the

✓ criminal breaches identified are related to the fraudulent conduct of company business with respect to one or more companies in the Nugan Hand Group. The Commonwealth laws breached were tax laws, foreign exchange regulations and the Royal Commissions Act.

✓ The Commission has already passed on a considerable amount of information to relevant law enforcement bodies (pursuant to section 6P of the Commonwealth Royal Commissions Act) which may lead to further criminal offences being identified by those bodies.

✓ The Commission made its assessment of the involvement of particular individuals in criminal behaviour on the basis of the civil standard of proof and therefore made no recommendations with respect to prosecutions. However, the conclusions as to criminality need to be followed up and the Commission has passed information, which may lead to prosecutions, to the relevant law enforcement bodies.

Deletions

X The Government is aware that a significant amount of the information contained in this Report has been published previously. However, following consultation with the NSW Government and on the advice of the Director of Public Prosecutions, the Attorney-General's Department and the Australian Federal Police, the Government has decided to delete some sections of the public version of the report that might otherwise prejudice continuing investigations, prosecutions or fair trials or damage the reputations of persons against whom no charge has been laid or is likely to be laid.

Recommendations

Turning to the recommendations of the Royal Commission, the following action is being taken by the Government:

- (1) The Commission has recommended amendments to the Royal Commissions Act to provide for the application of the rules of

✓ natural justice to the proceedings of Royal Commissions and to provide for Royal Commission powers to remain in force following the delivery of Reports to enable the transfer, to relevant authorities, of material gathered by Royal Commissions.

A review of the Commonwealth Royal Commissions Act has been underway for some time and both of these issues will be considered before amendments are finalised. It is expected that this will be completed shortly.

- (2) The Royal Commission has also recommended that access to Cayman Islands' banking documentation be arranged through an agreement with the United Kingdom and that modern judicial assistance treaties be established between Australia and other appropriate countries. The Commonwealth, in consultation with the States and the Northern Territory, is currently drafting model treaties, for negotiation with Commonwealth and non-Commonwealth countries, regarding mutual assistance in criminal matters.

- ✓ (3) The Attorney-General is considering the Royal Commissioner's recommendations for legislation to provide for the specification of the duties of auditors and for the review, by the National Companies and Securities Commission, of the Companies Code. It is proposed to hold discussions with the States.

- Not current*
(4) ~~Finally, the Treasurer is considering the Royal Commissioner's recommendation that a committee be set up to liaise with professional bodies with a view to establishing criteria for the issuing of Bankers' Opinions.~~

Finally, the Treasurer has set up a committee to liaise with professional bodies to consider establishing criteria for the issuing of Bankers' opinions.



Recd 27/9/49
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DEPARTMENT OF THE SPECIAL MINISTER OF STATE

✓
A further page on Hill is
coming from the Attorney-General's
Department

With the Compliments of

A. Quinn

2-9-55

STEWART ROYAL COMMISSION REPORT ON NUGAN HAND

Detailed List of Proposed Deletions

MALONEY

- 2.48.12 delete paragraph plus end note 28
2.74.6 delete name (x 2) and reference to profile and
note 11
3.8.38 delete paragraph and relevant end notes
3.8.44 delete name and endnote 83
3.8.46 delete last sentence and endnote 85
3.9.21-108 delete the paragraphs and endnotes 66, 67, 68, 69

SWAN

- 2.70.3 delete 5th and 6th sentences and relevant end note
2.70.5 delete 5th and 6th sentences and relevant end note
2.70.7 delete paragraph, and endnotes 10, 13 & 14.
3.9.21-108 delete the paragraphs and endnotes 66, 67, 68, 69

STEWART ROYAL COMMISSION REPORT ON NUGAN HAND

Detailed List of Proposed Deletions

PART 10

- 10.3 delete reference to names Hill (once) and Brincat (once)
- 10.7 delete all words from "Second" to the end of the para.
- 10.11 delete
- 10.12 delete second sentence name Brincat (once)
- 10.13 delete names Hill (x 2) and Brincat (once)
- 10.15 delete names Hill (once), Brincat (once) and Shaw (once)
- 10/17 delete para.
- 10.20 omit the last sentence
- 10.23 omit the para
- 10.24 delete names Hill (x 2) and Brincat (x 2)
- 10.27 delete names Hill (x 3) and Brincat (x 2)
- 10.28 delete names Hill (once) and Brincat (once)
- 10.30 delete name Hill (once) and profile
- 10.32 delete name Hill (x 2)
- 10.34, 177 - 10. ^{delete all Hendlo prison} ~~34~~ 179 to "the provisions of"
- 10.181 delete 3rd sentence
- 10.186 delete para
- 10.190-208 *delete paras*

Endnotes

Delete all except 1-20 and 235, 237

delete paras

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90

F83/631

NOTE FOR FILE

STEWART ROYAL COMMISSION REPORT INTO NUGAN HAND -
GOVERNMENT'S RESPONSE

I attended (on an observer basis) a short OCLE Working Group (WG) meeting at DOSMOS on 23 September 1983 concerning the above. Other officers present were:

Mr M. Domney (Chairman)	DOSMOS
Ms A. Quinn	
Mr M. Hansen	AFP
Mr K. Vassarotti and one other	PM&C
Mr H. Woltring	AG's
Ms J. Jackson and one other	

Copies to:

Mr Jepsen
Mr Edwards

2. Mr Domney advised the meeting that their Department proposed that their ~~Minister~~ would table the Report in the week commencing 14 October 1985. To achieve this, it would be necessary to lodge the draft Cabinet Submission with the Cabinet Office by the end of this week or early next week.

3. Mr Domney circulated a schedule of proposed deletions from the Report (Attachment 1) which had been agreed with the NSW Government - advice was awaited from them in respect of Pollard and Scott-Kemmis. In response to Mr Domney's enquiry of those present, AFP advised that they were having discussions with the Reserve Bank over 'Yorkville Contra' matters (see AFP memorandum at Attachment 2) but as both parties were quite relaxed about the matter they did not propose any further deletions. Ms Quinn indicated that the ATO and DDP had advised they had no firm views on further deletions. I informed the meeting that as possible deletion of names did not involve any policy aspects as far as Treasury was concerned, we considered such deletions to be a matter for AG's and any other interested departments. PM&C appeared also not to have strong views. AG's however, indicated they considered further ~~proposed~~ deletions desirable and circulated a list of further deletions of substance (Attachment 3) which, after discussion, they agreed to quickly submit to the NSW Government. (It became evident

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during the meeting that the Commonwealth was not, at this stage, making any investigations into any person mentioned in the report and was not charging and did not propose to charge any person with a breach of Commonwealth law; the deletions already agreed to by the WG covered references to persons, namely Hill, Swan and Maloney who had been, or were expected to be, committed for trial under NSW law.) Mr Woltring's view was that all matters which would be left to a jury to decide should be deleted to give accused persons a fair trial. It was agreed that the Attorney-General and Special Minister of State (and possibly the Prime Minister) should decide on the actual deletions to be made from the report.

4. The draft Cabinet Submission (23.9.85) distributed at the meeting (Attachment 4) was not fully considered - only a couple of aspects were discussed - however, a new draft (Attachment 5) was circulated on 24.9.85. I confirmed at the meeting that Treasury had the bankers' opinion recommendation in hand and that we would advise any change necessary to the DOSMOS wording in (4) of Attachment A, page 10, as follows:-

'(4) Finally, the Treasurer is considering the Royal Commissioner's recommendation that a committee be set up to liaise with professional bodies with a view to establishing criteria for the issuing of Bankers' Opinions.'

To more precisely indicate the current position, the above text might be amended to read:-

^{OCLE}
'(4) Finally, ~~the Treasurer~~ has set up a committee to liaise with professional bodies to consider establishing criteria for the issuing of bankers' opinions.'

5. A reading of the draft Cabinet Submission and the revised version received on 24 September, 1985, indicates references to Treasury/Treasurer and aspects concerning the Treasurer's portfolio responsibilities (excluding tax matters) are on the cover sheet, in paragraph 6 of the Submission and in the proposed Ministerial statement on pages 7 to 10. The only reference which would seem to require our attention is the last paragraph on page 10 concerning the bankers' opinion recommendation (referred to in the previous paragraph).

6. The meeting concluded on the basis that:-

- . the WG would liaise further with the NSW Government on deletions to the Report;
- . a revised draft Cabinet Submission would be circulated (Attachment 5);

687lf

- . the WG would consult OCLE on the draft Cabinet Submission later this week;
- . the WG would probably need to meet again at the end of the week to finalise the draft Submission.



J.A. Fisk
25 September, 1985

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65 MARTIN PLACE

BOX 3947 GPO SYDNEY 2001

TELEPHONE 234 9333

IN REPLY PLEASE QUOTE SD

RESERVE BANK OF AUSTRALIA

24 September 1985

Mr Fisk
pls hotel.
~~Mr M. G. G. G. G.~~
Lippin
D

CONFIDENTIAL

Attention Mr R.M. Beetham

The Secretary to the Treasury
The Treasury
Parkes Place
CANBERRA ACT 2600

Dear Sir,

STEWART REPORT ON ACTIVITIES OF NUGAN HAND GROUP:
BANKERS' OPINIONS

Referring to your telex message No. 9961 of 4 September, the Chairman of the Australian Bankers' Association has responded to our enquiry regarding current Australian practice in respect of bankers' opinions in the following terms:

"I refer to your recent request for information on bankers' opinions in Australia.

While there is no formal code within the banking industry in Australia under which opinions are sought and given, similar standards and conventions are observed by all banks. Most overseas banks also appear to observe similar conventions.

In Australia, the opinion process amounts to an exchange of information on an inter-bank basis, opinions being sought by banks on behalf of customers. Banks will not respond to requests for opinions concerning their customers from third parties.

Information disclosed in response to requests for opinions is provided on a confidential basis and 'without responsibility'. Because of the important principles involved, opinions are authorised only by senior bank staff and there is a preference for responses to be

2.

conveyed orally, although written replies are provided in appropriate cases. Particular care is exercised where opinions are requested by telephone.

The information sought by opinion is usually of a broad nature pertaining to the general worth and standing of a particular person or enterprise, and to reliability in meeting engagements. Opinions are based on a knowledgeable assessment of a customer's financial standing and history and are expressed in general terms. Specific details relating to account balances, borrowing arrangements, security held, etc are not divulged.

Great care is exercised in responding to requests for opinions since there are risks of misinterpretation in providing too little or too much information; an appropriate balance needs to be achieved, otherwise the subject customer could be wrongly damaged or the enquirer misled.

In general, banks place reliance on opinions to the extent of confirming an appraisal already made. A favourable opinion could serve to confirm an initial assessment of a proposition, while an adverse response would invite caution in a contemplated transaction. Banks would seldom rely solely on another banker's opinion in determining a course of action. It is evident however that enquirers, as distinct from banks, place weight on responses which directly influence final decisions in many cases. Many enterprises involved in the provision of credit use the facility extensively.

As to legal aspects, there is a considerable body of case law dealing with the provision of information and advice, and despite disclaimer of responsibility it is well established that bankers are under a duty of care to ensure that information provided is factual and given without negligence. Two major Australian cases have resulted in judgment being given against banks for being negligent in failing to exercise reasonable care and skill in giving an opinion, and also because the opinion was false and fraudulent, or was given recklessly without regard to the truth. The duty of care doctrine prescribes that bankers be thoroughly aware of their responsibilities when providing opinions.

In the matter of disclosure, although it is not normal practice to inform customers when an opinion is being given on their account, banks will accede to written requests from customers to provide the text of opinions

given. In Victoria, legislation provides that when a customer, on whose account an opinion has been given, is refused credit as a result, full disclosure of 'the nature and substance of all information in the bank's file' concerning that person may be obtained.

I trust that this information is of assistance."

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'M Hill', written in a cursive style.

M.R. Hill
Secretary

RECEIVED
1971 MAR 20
10:41 AM
FBI - WASHINGTON
COMMUNICATIONS SECTION

INWARDS TELEPRINTER MESSAGE

Received

SEP 11 3:55 PM '85
a.m./p.m.

DELIVER TO:

Mr Jepsen 6884

H. H. Richards
Mr Fink pls apk.

RBST 356 11/9/85 SYDNEY RBST 356

JEPSEN TREASURY CANBERRA FROM MCKENNA RESERVE BANK SYDNEY

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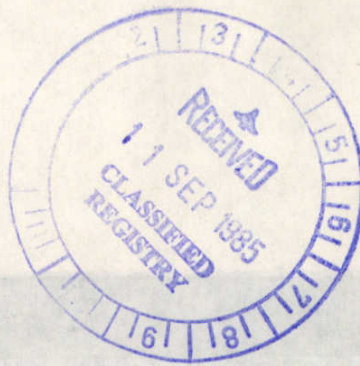
STEWART REPORT ON ACTIVITIES OF NUGAN HAND GROUP:
BANKERS OPINIONS

YOUR TELEX 9961 4/9/85.

THE COURSE PROPOSED IN PARA 4 IS ACCEPTABLE TO US.

TELEX MESSAGE

MESSAGE TELE



OUTWARDS TELEPRINTER MESSAGE

(Confirming Copy)

Deliver to:

M. EDWARDS
Mr Fisk
Mr Mallory *ATP*



ROUTINE

TO MR D. MCKENNA, RESERVE BANK OF AUSTRALIA, SYDNEY
 FM FINANCIAL INSTITUTIONS DIVISION, TREASURY
 MSG NO 9961
 04/09/85

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STEWART REPORT ON ACTIVITIES OF NUGAN HAND GROUP: BANKER'S OPINIONS
 REF CORRESPONDENCE IN LATE JULY ON THIS MATTER.

2. AS WE HAVE ALREADY INDICATED TO YOU, WE AGREE THAT THE
 PROCESSES OUTLINED IN PARAGRAPH 3 OF YOUR TELEX OF 23 JULY 1985
 WOULD PROVIDE THE INITIAL BASIS FOR PROGRESSING THIS MATTER.

3. AS TO LINES OF RESPONSIBILITY FOR THE THREE QUESTIONS
 IDENTIFIED IN YOUR TELEX, AND CONSISTENT WITH THE INFORMAL NATURE OF
 THE WORKING GROUP, WE GRATEFULLY ACCEPT YOUR OFFER OF 6 AUGUST TO
 ASSUME PRIME RESPONSIBILITY FOR CONSULTING WITH THE ABA ON
 AUSTRALIAN PRACTICE IN RESPECT OF GUIDELINES USED BY BANKS TO
 CONTROL THE ISSUE OF OPINIONS. ON THE QUESTION OF OVERSEAS
 PRACTICES/GUIDELINES WE WOULD PROPOSE APPROACHING TREASURY POSTS FOR
 WHATEVER INFORMATION THEY CAN OBTAIN BUT WOULD ALSO APPRECIATE ANY
 INFORMATION IN THAT REGARD WHICH THE ABA MAY BE ABLE TO PROVIDE IN
 THE COURSE OF YOUR CONSULTATIONS WITH THEM. THE QUESTION OF THE
 CURRENT LEGAL POSITION OF BANKERS' OPINIONS IN AUSTRALIA IS, OF
 COURSE, PRINCIPALLY A MATTER FOR ATTORNEY-GENERAL'S.

4. IF YOU ARE IN AGREEMENT WITH THE ABOVE WE WILL APPROACH
 ATTORNEY-GENERAL'S ON THAT BASIS. FURTHER PROCESSES WILL OBVIOUSLY
 DEPEND TO SOME EXTENT ON THE OUTCOME OF THE INITIAL WORK. HOWEVER,
 ONCE THE INFORMATION ON THE FORGOING QUESTIONS IS ASSEMBLED WE WOULD
 PROPOSE TO CANVASS THE INFORMAL VIEWS OF THE MEMBERS OF THE WORKING
 GROUP AND PREPARE AN INITIAL DRAFT OF A PAPER FOR THEIR
 CONSIDERATION. WE DO NOT ENVISAGE AT THIS STAGE THAT A FORMAL
 MEETING OF THE GROUP WILL BE NECESSARY.

TELEX MESSAGE TELE

GE TELEX MESSAGE TELE

Please transmit the following message and after transmission return material to:			Sent am pm
Name of originator M. EDWARDS	Room No B111	Phone No X 2628	Reference No
Classification CONF	Authorised (Branch Head) Name, printed J. S. JENSEN		Message No 9961
Precedence ROUTINE	Authorised (Branch Head) Signature <i>[Signature]</i> 3 / 9 / 85		
To:			
Name of Person MR. D. MCKENNA			
Name of Organisation RESERVE BANK OF AUSTRALIA			
City or Location SYDNEY Telex No			
Repeated:			
Name of Person			
Name of Organisation			
City or Location Telex No			
From FINANCIAL INSTITUTIONS DIVISION, TREASURY			
Subject Heading STEWART REPORT ON ACTIVITIES OF NUGAN HAND GROUP: BANKERS' OPINIONS			

(PLEASE TAKE IN ATTACHED)

OUTWARDS
TELEPRINTER

1
STEWART REPORT ON ACTIVITIES OF NUGAN HAND GROUP: BANKERS'
OPINIONS

REF CORRESPONDENCE IN LATE JULY ON THIS MATTER (r)

2. AS WE HAVE ALREADY INDICATED TO YOU, WE AGREE THAT THE PROCESSES OUTLINED IN PARAGRAPH 3 OF YOUR TELEX OF 23 JULY 1985 WOULD PROVIDE THE INITIAL BASIS FOR PROGRESSING THIS MATTER.

3. AS TO LINES OF RESPONSIBILITY FOR THE THREE QUESTIONS IDENTIFIED IN YOUR TELEX, AND CONSISTENT WITH THE INFORMAL NATURE OF THE WORKING GROUP, WE GRATEFULLY ACCEPT YOUR OFFER OF 6 AUGUST TO ASSUME PRIME RESPONSIBILITY FOR CONSULTING
X WITH THE ABA ON AUSTRALIAN PRACTICE IN RESPECT ^{OF} GUIDELINES USED BY BANKS TO CONTROL THE ISSUE OF OPINIONS. ~~IN AUSTRALIA AND IN OTHER COUNTRIES.~~ ON THE QUESTION OF OVERSEAS PRACTICES/GUIDELINES WE WOULD PROPOSE APPROACHING TREASURY POSTS FOR WHATEVER INFORMATION THEY CAN OBTAIN BUT WOULD ALSO APPRECIATE ANY INFORMATION IN THAT REGARD WHICH THE ABA MAY BE ABLE TO PROVIDE IN THE COURSE OF YOUR CONSULTATIONS WITH THEM. THE QUESTION OF THE CURRENT LEGAL POSITION OF BANKERS' OPINIONS IN AUSTRALIA IS, OF COURSE, PRINCIPALLY A MATTER FOR ATTORNEY-GENERAL'S.

4. IF YOU ARE IN AGREEMENT WITH THE ABOVE WE WILL APPROACH

ON THAT BASIS

ATTORNEY-GENERAL'S ~~IN THOSE TERMS~~. FURTHER PROCESSES WILL

OBVIOUSLY DEPEND TO SOME EXTENT ON THE OUTCOME OF THE INITIAL

X WORK. HOWEVER, ONCE THE INFORMATION ON THE FORGOING QUESTIONS

IS ASSEMBLED WE WOULD PROPOSE TO CANVASS THE INFORMAL VIEWS

OF THE MEMBERS OF THE WORKING GROUP AND PREPARE AN INITIAL

DRAFT OF A PAPER FOR THEIR CONSIDERATION. WE DO NOT ENVISAGE

AT THIS STAGE THAT A FORMAL MEETING OF THE GROUP WILL BE

NECESSARY.

82541

SEP 3 3 44 PM '85
SEP 3 3 44 PM '85
DEPT. TREASURY
DEPT. TREASURY
REGISTRY

RECEIVED

AT THIS PLACE AND A WORKING MEETING OF THE GROUP WILL BE
HOLD OF A LATER FOR THEIR CONSIDERATION. WE DO NOT ENLIGHTEN
OF THE MEMBERS OF THE WORKING GROUP AND EVERYONE IN THE
IS ASSUMED WE WOULD KNOW TO CARRY ON THE WORKING GROUP
WORK. HOWEVER, ONCE THE INFORMATION ON THE WORKING GROUP
ORGANIZED BEING TO SOME EXTENT ON THE OUTCOME OF THE INITIAL
ECONOMY-SECURITY, IN THESE TERMS. EARLIER PROCEEDINGS WILL

Mr Mallory
12 5/8.

M. Bertram^{3/9}

6378

When you have any further thoughts
we will proceed with this work
programme. JG 2/9

Mr Jensen

~~by Jensen~~
Also proceed as
proposed by L Edwards

A 3/9

STEWART REPORT - NUGAN HAND: RECOMMENDATION RE BANKERS' OPINIONS

At its meeting on 25 July, the Officials Committee
on Law Enforcement agreed to our suggestion that
the issues involved in the above be considered
by a small informal working group comprising the
RBA, A-G's and ourselves. The matter has not

progressed much beyond that ~~and~~ but I think it is
time we got ~~the~~ something moving (Mr Hinton initially
planned to do this but his time ran out!)

2. As the initial step, I have drafted the attached
(as forwarded with them by AMH)
telex to RBA & essentially agreeing to their

suggestions for obtaining more complete info on
and Australian

overseas / practices / arrangements and current legal

position and suggesting lines of responsibility for

this namely:

• RBA consult the ABA on Australian practices etc

• A-G's be approached on current legal aspects / issues

• We approach Treasury ^{London Washington Tokyo} posts for info on overseas arrangements. ^{might be but RBA may find out as much from the banks}

3. I would then envisage that once this info is assembled we would ascertain the informal views of members on their preferred approaches (I think we would envisage some cooperative guidelines arrangement being put in place by RBA in consultation with the banks) and prepare initial draft of suggested govt response for consideration by OCE.

For consideration
Mr Edwards

21/8.

64
76

Mr. M. Stewart
Mr. Fyfe
ATF p 2

8 August 1985

The Secretary
Department of the Special
Minister of State
West Block
CANBERRA ACT 2600

ATTENTION Ms N.C. Bee

NUGAN HAND ROYAL COMMISSION FINAL REPORT

In response to your memorandum of 2 August 1985 I advise that the Treasury and the Reserve Bank do not wish to propose any deletions from the Stewart Report on the Nugan Hand Group for its public release. We understand that Part 10, at least, will be excluded from the Report that is released publicly.

2. In view of this advice, we do not see any need for a Treasury officer to participate in the meeting of the working group scheduled for 2.30pm on Thursday 15 August.

3. We would be grateful if you would please keep us informed of developments regarding public release of the Report.

Sgd. A. M. HINTON

R.M. Beetham
First Assistant Secretary

ALL 7/8

To FID, Treasury, Canberra Refer: Mr T. Hinton	Facsimile Message from Reserve Bank of Australia Sydney
From Phillips, Reserve Bank, Sydney	Message No. 020

STEWART REPORT - NUGAN HAND GROUP

1. Refer your telex No. 9590 of 29/7/85 (and 9680 of 5/8/85).
2. The suggested approach in your para 4 appears sensible. We will respond promptly to any list of matters etc. you send to us, and will be happy to take on prime responsibility for consultation with ABA if that is desired.
3. As to how much of the Report should be published, the competing claims of adequate public information on the one hand, and natural justice and prosecution processes on the other seem likely to be adequately covered by the proposed small informal working group. We do not wish to press a view on the specific section mentioned in your para 8 or any other references in the report. We would however appreciate being kept in touch with what is planned.

Mr. Hinton

① *Colin Hinton*

*Mr. Moore
Mr. Keenan
Mr. Hinton
Mr. Zeman*

② *Mr. M. Edwards
Mr. Fisher 7/8
I now see we need to TIT accordingly
at meeting scheduled for 2.30 15/8
ALL 7/8*

Mr. M. Edwards

③ *Mr. Mallory
A.P. Stewart file*

Mr. Beckham ^{8/8}
to see

Mr. M. Edwards
Mr. Fox ~~W~~

STEWART REPORT: NHE

Kate McKenzie SMOSS (702941) informed Nina today that the meeting to discuss deletions to the Stewart Report for further release is now rescheduled for Thursday 15/8 at 2:30

Robert
6/8

15. In light of RSP, fax message today (not seeking deletions) to further a written reply to SMOSS and TST not attend above meeting.

Ally

INWARDS TELEPRINTER MESSAGE

(Confirming Copy)

Deliver to:

A. HYNTON M. Rhea
Mr M. Edwards
Mr Fisk



PRIORITY

TO THE SECRETARY'S DEPARTMENT, RESERVE BANK OF AUSTRALIA, SYDNEY
FM FINANCIAL INSTITUTIONS DIVISION, TREASURY, CANBERRA
MSG NO 9680
05/0 /85

CONFIDENTIAL

STEWART REPORT: NUGAN HAND GROUP

(ATTN MR D. MCKENNA)

FURTHER TO OUR TELEX OF 29 JULY AND IN RELATION TO PUBLIC
RELEASE OF THE STEWART REPORT, WE NOW ADVISE THAT A MEETING
HAS BEEN PROPOSED FOR NEXT WEEK TO DISCUSS DELETIONS FROM THE
REPORT. DEPARTMENTS ATTENDING THIS MEETING HAVE BEEN ASKED
TO ADVISE IN ADVANCE (UNDERLINE TWO) PROPOSED DELETIONS,
TOGETHER WITH THEIR REASONS FOR SUCH DELETIONS.

2. OUR DISPOSITION IS TO NOT (UNDERLINE ONE) SEEK DELETIONS
(OTHER THAN PART 10) FROM THE REPORT TO BE RELEASED PUBLICLY.

3. WE, THEREFORE, WOULD BE GRATEFUL FOR YOUR EARLY ADVICE IN
RELATION TO PARAGRAPH 8 OF OUR TELEX OF 20 JULY REGARDING
YOUR VIEWS ON THE NEED OR OTHERWISE, FROM YOUR PERSPECTIVE,
AS TO WHETHER THERE SHOULD BE DELETIONS FROM THE REPORT FOR
PUBLIC RELEASE.

NNNNP

The Treasury		Sent ⁵¹ 12 am pm	
Please transmit the following message and after transmission return material to:			
Name of originator A.M. HINTON	Room No B116A	Phone No 3044	Reference No
Classification CONFIDENTIAL	Authorised (Branch Head) Name, printed A.M. HINTON		Message No 9680
Precedence PRIORITY	Authorised (Branch Head) Signature <i>A.M. Hinton</i>		
5 / 8 / 85			
To:			
Name of Person		THE SECRETARY'S DEPARTMENT	
Name of Organisation		RESERVE BANK OF AUSTRALIA	
City or Location		SYDNEY	
Telex No			
Repeated:			
Name of Person			
Name of Organisation			
City or Location			
Telex No			
From			
FINANCIAL INSTITUTIONS DIVISION			
TREASURY CANBERRA			
Subject Heading			
STEWART REPORT: NUGAN HAND GROUP			

(ATTENTION MR D. MCKENNA)

FURTHER TO OUR TELEX OF 29 JULY AND IN RELATION TO PUBLIC RELEASE OF THE STEWART REPORT, WE NOW ADVISE THAT A MEETING HAS BEEN PROPOSED FOR NEXT WEEK TO DISCUSS DELETIONS FROM THE REPORT. DEPARTMENTS ATTENDING THIS MEETING HAVE BEEN ASKED TO ADVISE IN ADVANCE (UNDERLINE TWO) PROPOSED DELETIONS, TOGETHER WITH THEIR REASONS FOR SUCH DELETIONS.

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3. WE, THEREFORE, WOULD BE GRATEFUL FOR YOUR EARLY ADVICE IN RELATION TO PARAGRAPH 8 OF OUR TELEX OF 29 JULY REGARDING YOUR VIEWS ON THE NEED OR OTHERWISE, FROM YOUR PERSPECTIVE, AS TO WHETHER THERE SHOULD BE DELETIONS FROM THE REPORT FOR PUBLIC RELEASE.

OUTWARDS TELEPRINTER

OUTWARD TELEPRINTER

Room No.	Room No.	Room No.	Room No.
Reference No.	Reference No.	Reference No.	Reference No.
Message No.	Message No.	Message No.	Message No.
3688			

AUG 5 2 49 PM '85

DEPT. TREASURY
REGISTRY

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YOUR VIEWS ON THE NEED OR OTHERWISE, FROM YOUR PERSPECTIVE,
AS TO WHETHER THERE SHOULD BE DELETIONS FROM THE REPORT FOR
PUBLIC RELEASE.

A.M. HINTON

B116A

3044

CONFIDENTIAL

A.M. HINTON

5 8 85

PRIORITY

Sgd. A. M. HINTON

5 8 85

THE SECRETARY'S DEPARTMENT
RESERVE BANK OF AUSTRALIA
SYDNEY

FINANCIAL INSTITUTIONS DIVISION
TREASURY CANBERRA

STEWART REPORT: NUGAN HAND GROUP

(ATTENTION MR D. MCKENNA)

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YOUR VIEWS ON THE NEED OR OTHERWISE, FROM YOUR PERSPECTIVE,
AS TO WHETHER THERE SHOULD BE DELETIONS FROM THE REPORT FOR
PUBLIC RELEASE.



① City for me 2/15
② Mr M. Edwards
2/17

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DEPARTMENT OF THE SPECIAL MINISTER OF STATE

West Block, Canberra, A.C.T. 2600
Telephone: 70 2211

The Secretary
Department of the Treasury
Treasury Building
Parkes Place
PARKES ACT 2600

Attention Mr A. Hinton

2/8

NUGAN HAND ROYAL COMMISSION FINAL REPORT

As you will be aware the OCLE meeting of 25 July set up a working party to consider the extent of deletions necessary prior to the publication of the above report to safeguard against prejudice to investigative and prosecutorial operations and prejudice to reputation.

2. PM&C circulated at the OCLE meeting draft guidelines for deletions from Royal Commission Reports. As agreed, the initial discussions regarding the deletions from the Nugan Hand report will be based on these guidelines, taking into account any perceived inadequacies etc.

3. It is proposed that the first meeting of this working group be held on Wednesday, 14 August at 2pm in West Block. Contact officer is Ms A. Quinn on 702940. It would be appreciated if agencies would attend this meeting with proposed deletions, and their reasons for such, identified in advance. In this way there may be no need for further meetings.

4. As discussed with Mr J. Fisk, please find attached the relevant extracts from the Prime Minister's press release of 1 November 1984 regarding the Costigan Royal Commission Final Report.

Ch. R.

N.C. Bee
A/g Assistant Secretary
Organised Crime Policy Branch

2. August 1985



222
SH
68

PRIME MINISTER

GOVERNMENT'S RESPONSE TO FINAL REPORT OF ROYAL COMMISSION INTO THE ACTIVITIES OF THE FEDERATED SHIP PAINTERS AND DOCKERS UNION

Release of Final Report

The Government is releasing Volumes 1 to 5 of the Costigan Commission Final Report. This is in accordance with the strong recommendation of the Royal Commissioner (at paragraph 1.025 of Volume 1 of the Report). The Government is also releasing an appendix volume containing Appendices 1A, 1B and 1C, which list the public witnesses, their representatives and public exhibits.

There are another six substantive volumes which Mr Costigan recommended, and the Government accepted, should remain confidential. Mr Costigan has said (at paragraph 1.024 of Volume 1) that he made such recommendations in some cases because persons are on trial and in other cases because highly sensitive current investigations could be impeded, if not destroyed, by disclosure. (In addition, some appendix volumes have not been published because of similar concerns, because of the need to protect the security of the systems passed to the NCA or because they contain material published elsewhere).

Within three of the five substantive volumes published, certain deletions have been made - identified by blank spaces in certain parts of those volumes. As I had informed the Parliament would occur, these deletions were based on the advice of the Government's legal and law enforcement advisers. The Victorian Government and its advisers were also involved in this process and the deletions were brought to Mr Costigan's attention.

Agreement was reached between the Commonwealth and Victorian Governments that certain limited deletions should be made. In Volume 1, certain names of individuals and companies have been deleted on the

TO D. Lenihan

14 Pages

strong advice of the Commonwealth and Victorian Directors of Public Prosecutions in order to avoid prejudice to certain current and imminent prosecution proceedings. Only 12 pages are affected - pp 86-91, 100-101, 104-106, 113. In Volume 3, certain material at pages 31-33 which might have identified an individual has been deleted on the strong advice of the Victorian Director of Public Prosecutions to avoid prejudice to a current prosecution. In Volume 5, certain material (pages 29-72) about the activities of a drug trafficker which, if revealed, might impede investigations has been deleted on the strong advice of the National Crime Authority.

My assurance to the Parliament - that the decisions on what would or would not be tabled or published would in no way be affected by political considerations - has accordingly been completely honoured.

Just three days after my Government received the Final Report, I made available a complete copy to the Leader of the Opposition (with the exception of 3 appendices containing highly sensitive and technical material relating to the Commission's computer system - Mr Peacock is aware that only a very restricted number of copies of this sensitive material was presented to the Commonwealth by the Commission). Mr Peacock has assured me that the confidential material will be completely protected.

The release of the final report of the Costigan Commission puts to rest the irrational claims and behaviour of the Opposition on the crime issue.

Firstly, it sinks without trace the charge made by the Opposition Leader on 3 October 1984, that:

"..... We are going into an election campaign without Mr Hawke allowing the Australian people to know what is in the Costigan Report.... Australia is entitled to know the extent to which this sophisticated network of organised crime is taking over this country. And yet the Prime Minister is not going to allow that to occur. This man is trying to walk away from telling Australians just what the extent of the threat is."

Secondly, it buries the claim that in any way this Government had something to fear from the Costigan Commission Report as I said on 20 September:

These current investigations and prosecutions are now the subject of action by the NCA, the Commonwealth and Victorian DPPs, and the AFP. Mr Costigan's investigations have therefore been continued - in none have the trails gone cold.

Moreover, the resources of the Costigan Royal Commission have now been transferred to the NCA: the Commission's computer database and system; the analyses prepared by the staff of the Commission: the material contained in reports of the Commission, including the full, unexpurgated final report; one of the Commission's junior counsel; most of the solicitors who have been engaged in conducting Mr Costigan's operations; and accountants, analysts, collators and other staff who have been involved in Mr Costigan's operations. There can be no doubt that, as Special Prosecutor Redlich said at page 48 of his recent report, "the Authority has the scope to maintain the initiatives developed by the Costigan Royal Commission".

Mr Costigan has recommended that the activities and affairs of certain persons mentioned in the confidential volumes be closely monitored and investigated by all relevant law enforcement agencies including the NCA, the Australian Taxation Office, Australian Customs Service, corporate affairs offices, bankruptcy offices and law enforcement agencies in the United States. It will fall to the incoming Government to address these matters and to give such further directions as may be considered necessary.

Civil Liberties Issues

Some of the material in the published Volumes posed difficulties for the Government because of the Government's strong commitment to civil liberties. This material relates to the naming of certain individuals. Mr Costigan argues at some length that exposure of suspected criminal activities by public reports of Royal Commissions and like bodies before conviction of the persons concerned and, indeed, even in circumstances where conviction is unlikely, is a proper and effective means of dealing with those activities. On this basis Mr Costigan has named a considerable number of persons as suspected of committing offences or being in some way involved in the commission of offences.

The Government strongly believes that such a course is normally neither correct in principle nor effective in final result. It believes that persons should not be named in public reports as having committed, or as being suspected of having committed, offences unless duly

convicted in the courts of law. To do so would make a mockery of the rule of law, of the long-standing presumption of innocence before conviction and of protections that should be afforded by the law to every citizen.

In the circumstances surrounding this Report, however, the Government believes it has no alternative to deciding that deletions should be confined to those made on narrow legal and law enforcement grounds which I have described. With considerable reluctance the Government has decided that no deletions should be made because of the civil liberties considerations mentioned above, many of which are almost certainly applicable. This decision has been taken for two primary reasons:

- given the nature and structure of Mr Costigan's Report, it would not be practical to delete all references to persons named as being involved in the commission of offences - to delete all such references would make the Report, to a large extent, meaningless; and
- there has been a high degree of public expectation in relation to this Report resulting from the breaches of confidentiality that have occurred by publication of material in the National Times, and the cheap and dishonest political posturing by the Opposition that the Government had something to hide. The substantial deletion of names would therefore be likely to lead to community concern and misunderstanding.

For the reasons stated the Government's profoundly regrets the course of action that has been necessary in this instance, and it is important to note that the National Crime Authority Act makes provision to ensure that this cannot happen in the case of the NCA. The Government does not believe that naming of persons in public reports is an effective or appropriate alternative to the processes and sanctions of the law of the land.

Conclusions

Finally I should like to extend, on behalf of all concerned Australians, our sincere appreciation for the application and dedication with which Mr Costigan and his staff have approached the important tasks they were given by successive Governments, tasks which expanded from limited objectives into the investigation and exposure of organised crime.

There have, as Mr Costigan acknowledges, been frank and

The Treasury -

OUTWARDS TELEPRINTER MESSAGE

(Confirming Copy)

Deliver to:

JUL 29 2 59 PM '85

A. L. Wilson

CONFIDENTIAL

PRIORITY

TO SECRETARY'S DEPARTMENT, RESERVE BANK OF AUST, SYDNEY
 FM FINANCIAL INSTITUTIONS DIVISION, TREASURY, CANBERRA
 MSG NO 9590
 29/07/85

CONFIDENTIAL

STEWART REPORT: NUGAN HAND GROUP

(ATTENTION MR D. MCKENNA)

THANKS YOUR TELEX RBST278 OF 23 JULY.

2. A NUMBER OF MATTERS AROSE AT MEETING OF THURSDAY 25 JULY OF THE OFFICIALS COMMITTEE ON LAW ENFORCEMENT IN RELATION TO STEWART REPORT THAT ARE OF INTEREST TO RESERVE BANK (VIZ, BANKER'S OPINIONS AND PUBLIC RELEASE OF REPORT).

3. WITH REGARD TO BANKERS' OPINIONS AND CONSISTENT WITH YOUR TELEX AND OUR DUSCYSSUBS, MEETING ACCEPTED OUR SUGGESTION THAT A SMALL INFORMAL WORKING GROUP (COMPRISING REPRESENTATIVES FROM TREASURY, RESERVE BANK AND ATTORNEY-GENERAL'S DEPARTMENT) BE ESTABLISHED TO CONSIDER STEWART REPORT RECOMMENDATION 11.8 (PAGE 1099), WITH CONSULTATIONS AS APPROPRIATE BEING UNDERTAKEN WITH ABA.

4. SUBJECT TO YOUR VIEWS, WE SUGGEST WE DRAFT A LIST OF MATTERS ON WHICH MORE INFORMATION IS REQUIRED (EG, BASED ON PARAGRAPH 3 OF YOUR TELEX) ON WHICH COMMENTS COULD BE SOUGHT FROM YOU AND AG'S. THIS LIST COULD INDICATE WHICH MEMBERS OF THE WG SHOULD BE PRIMARILY RESPONSIBLE FOR OBTAINING ADDITIONAL INFORMATION (EG, AG'S ON LEGAL QUESTIONS AND RBA CONSULTATION WITH ABA). FOLLOWING YOUR RESPONSE TO THIS TELEX WE PROPOSE WRITING TO AG'S ACCORDINGLY.

5. AT MEETING ON 25 JULY, CHAIRMAN OF COMMITTEE (NEIL MCINNES, DEPUTY SECRETARY, PM AND C) REFERRED TO STEWART RECOMMENDATION THAT REPORT BE RELEASED IN FULL EXCEPT FOR THE DELETION OF PART 10. AG'S REPRESENTATIVES EXPRESSED CONCERN WITH THIS COURSE OF ACTION AND SOUGHT CONSIDERATION OF DELETION OF MORE MATERIAL BEFORE RELEASE. THEY WERE PARTICULARLY CONCERNED THAT RELEASE OF NAMES MIGHT BE PREJUDICIAL TO SUCH MATTERS AS: THE RULES OF NATURAL JUSTICE (SEMI-COLON) CONDUCT OF INVESTIGATIONS OF BREACHES OF LAW (SEMI-COLON) AND PROSECUTION PROCESSES. SOME OTHERS AT THE MEETING EXPRESSED SIMILAR CONCERN. THE CHAIRMAN (AND TO SOME EXTENT, SPECIAL MINISTER OF STATE REPRESENTATIVE) NOTED THAT TOO MUCH DELETION IN THE PUBLICLY RELEASED VERSION WOULD MAKE IT UNREADABLE AND COULD LEAD TO CRITICISM THAT THE GOVERNMENT WAS INVOLVED IN A 'COVER UP'. THE CHAIRMAN ALSO NOTED THAT THE REPORT WOULD BE RELEASED UNDER PARLIAMENTARY PRIVILEGE. ON THE OTHER HAND, REFERENCE WAS MADE TO THE PRIME MINISTER'S COMMENTS IN THE CONTEXT OF REACTION TO THE COSTIGAN REPORT OF THE IMPORTANCE OF THE GOVERNMENT HANDLING APPROPRIATELY REPORTS WHICH NAMED INDIVIDUALS WHO HAD YET TO BE PROVED TO BREACHED LAW.

6. THE COMMITTEE DISCUSSED BRIEFLY DRAFT GUIDELINES ON THE PUBLICATION OF NAMES IN PUBLIC REPORTS ON LAW ENFORCEMENT MATTERS (THESE GUIDELINES ARE BEING PREPARED APPARENTLY IN RESPONSE TO A PREVIOUS DECISION BY GOVERNMENT). HOWEVER, THESE GUIDELINES WILL NOT BE FINALISED PRIOR TO THE PROPOSED RELEASE OF THE STEWART REPORT EARLY IN THE BUDGET SESSION OF PARLIAMENT.

7. THE COMMITTEE DECIDED TO ESTABLISH A SMALL INFORMAL WORKING GROUP TO CLOSELY EXAMINE THE STEWART REPORT AS TO WHAT DELETIONS SHOULD BE MADE FOR PUBLIC RELEASE. THIS WG IS BEING CO-ORDINATED BY SMOS AND WILL ALSO INVOLVE AG'S, DPP AND AFP. AS OUR INTERESTS (AND THE BANK'S) ARE RELATIVELY LIMITED, WE SUGGESTED TO MEETING THAT WE MIGHT ADVISE SMOS IN WRITING OF OUR VIEWS REGARDING THIS MATTER. WE INDICATED THAT WE NEEDED TO CONSIDER, FOR EXAMPLE, THE REFERENCES TO THE INDIVIDUAL NAMED IN SECTION 7 OF PART 4.

TELEX MESSAGE TELEX MESSAGE TELEX MESSAGE TELEX MESSAGE

A circular purple ink stamp is located in the upper right corner of the page. The text 'RECEIVED' is curved along the top inner edge, '29 JUL' is in the center, and 'CLASSIC REGIST' is curved along the bottom inner edge. There is a small arrow pointing upwards towards the center of the stamp.

AGE TELEX MESSAGE TELEX MESSAGE TELEX MESSAGE TELEX MESSAGE

MESSAGE TELEX MESSAGE TELEX MESSAGE TELEX MESSAGE TELEX MESSAGE

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4. SUBJECT TO OUR VIEWS, WE SUGGEST WE DRAFT A LIST OF MATTERS ON WHICH MORE INFORMATION IS REQUIRED (EG, BASED ON PARAGRAPH 3 OF YOUR TELEX) ON WHICH COMMENTS COULD BE SOUGHT FROM YOU AND AG'S. THIS LIST COULD INDICATE WHICH MEMBERS OF THE WG SHOULD BE PRIMARILY RESPONSIBLE FOR OBTAINING ADDITIONAL INFORMATION (EG, AG'S ON LEGAL QUESTIONS AND RBA CONSULTATION WITH ABA). FOLLOWING YOUR RESPONSE TO THIS TELEX WE PROPOSE WRITING TO AG'S ACCORDINGLY.

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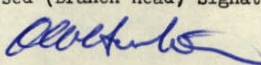
8. WE WOULD BE GRATEFUL FOR YOUR VIEWS AND COMMENTS ON THE NEED OR OTHERWISE, FROM YOUR PERSPECTIVE, AS TO WHETHER SECTION 7 OF PART 4 SHOULD BE EXCLUDED FROM PUBLIC RELEASE. IF DELETION WERE NECESSARY IN YOUR VIEW, PRESUMABLY THERE WOULD BE A NEED FOR CONSEQUENTIAL DELETIONS (EG, PARAGRAPH 2.64). WE, OF COURSE, ARE ALSO SEEKING YOUR ADVICE AS TO WHETHER YOU CONSIDER FROM YOUR PERSPECTIVE THERE IS A NEED TO DELETE ANY OTHER (UNDERLINE TWO) REFERENCES IN THE REPORT FOR PUBLIC RELEASE.

NNNN+
RESBANK AA26183
COMTRES AA62372VV

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49
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am
pm

Name of originator A.M. HINTON		Room No B116A	Phone No 3044	Reference No
Classification CONFIDENTIAL	Authorised (Branch Head) Name, printed A.M. HINTON			Message No 9590
Precedence PRIORITY	Authorised (Branch Head) Signature 			
		29 / 7 / 85		

To:	Name of Person SECRETARY'S DEPARTMENT		
	Name of Organisation RESERVE BANK OF AUSTRALIA		
	City or Location SYDNEY	Telex No	
Repeated:	Name of Person		
	Name of Organisation		
	City or Location	Telex No	
From	FINANCIAL INSTITUTIONS DIVISION TREASURY CANBERRA		

Subject Heading

STEWART REPORT: NUGAN HAND GROUP

(ATTENTION MR D. MCKENNA)

THANKS YOUR TELEX RBST278 OF 23 JULY.

2. A NUMBER OF MATTERS AROSE AT MEETING OF THURSDAY 25 JULY OF THE OFFICIALS COMMITTEE ON LAW ENFORCEMENT IN RELATION TO STEWART REPORT THAT ARE OF INTEREST TO RESERVE BANK (VIZ, BANKERS' OPINIONS AND PUBLIC RELEASE OF REPORT).

3. WITH REGARD TO BANKERS' OPINIONS AND CONSISTENT WITH YOUR TELEX AND OUR DISCUSSIONS, MEETING ACCEPTED OUR SUGGESTION THAT A SMALL INFORMAL WORKING GROUP (COMPRISING REPRESENTATIVES FROM TREASURY, RESERVE BANK AND ATTORNEY-GENERAL'S DEPARTMENT) BE ESTABLISHED TO CONSIDER STEWART REPORT RECOMMENDATION 11.8 (PAGE 1099), WITH CONSULTATIONS AS APPROPRIATE BEING UNDERTAKEN WITH ABA.

4. SUBJECT TO YOUR VIEWS, WE SUGGEST WE DRAFT A LIST OF MATTERS ON WHICH MORE INFORMATION IS REQUIRED (EG, BASED ON PARAGRAPH 3 OF YOUR TELEX) ON WHICH COMMENTS COULD BE SOUGHT FROM YOU AND AG'S. THIS LIST COULD INDICATE WHICH MEMBERS OF THE WG SHOULD BE PRIMARILY RESPONSIBLE FOR OBTAINING ADDITIONAL INFORMATION (EG, AG'S ON LEGAL QUESTIONS AND RBA CONSULTATION WITH ABA). FOLLOWING YOUR RESPONSE TO THIS TELEX WE PROPOSE WRITING TO AG'S ACCORDINGLY.

5. AT MEETING ON 25 JULY, CHAIRMAN OF COMMITTEE (NEIL MCINNES, DEPUTY SECRETARY, PM&C) REFERRED TO STEWART RECOMMENDATION THAT REPORT BE RELEASED IN FULL EXCEPT FOR THE DELETION OF PART 10. AG'S REPRESENTATIVES EXPRESSED CONCERN WITH THIS COURSE OF ACTION AND SOUGHT CONSIDERATION OF DELETION OF MORE MATERIAL BEFORE RELEASE. THEY WERE PARTICULARLY CONCERNED THAT RELEASE OF NAMES MIGHT BE PREJUDICIAL TO SUCH MATTERS AS: THE RULES OF NATURAL JUSTICE; CONDUCT OF INVESTIGATIONS OF BREACHES OF LAW; AND PROSECUTION PROCESSES. SOME OTHERS AT THE MEETING EXPRESSED SIMILAR CONCERN. THE CHAIRMAN (AND TO SOME EXTENT, SPECIAL MINISTER OF STATE REPRESENTATIVE) NOTED THAT TOO MUCH DELETION IN THE PUBLICALLY RELEASED VERSION WOULD MAKE IT UNREADABLE AND COULD LEAD TO CRITICISM THAT THE GOVERNMENT WAS INVOLVED IN A 'COVER UP'. THE CHAIRMAN ALSO NOTED THAT THE REPORT WOULD BE RELEASED UNDER PARLIAMENTARY PRIVILEGE. ON THE OTHER HAND, REFERENCE WAS MADE TO THE PRIME MINISTER'S COMMENTS IN THE CONTEXT OF REACTION TO THE COSTIGAN REPORT OF THE IMPORTANCE OF THE GOVERNMENT HANDLING APPROPRIATELY REPORTS WHICH NAMED INDIVIDUALS WHO HAD YET TO BE PROVED TO BREACHED LAW.

6. THE COMMITTEE DISCUSSED BRIEFLY DRAFT GUIDELINES ON THE PUBLICATION OF NAMES IN PUBLIC REPORTS ON LAW ENFORCEMENT MATTERS (THESE GUIDELINES ARE BEING PREPARED APPARENTLY IN RESPONSE TO A PREVIOUS DECISION BY GOVERNMENT). HOWEVER, THESE GUIDELINES WILL NOT BE FINALISED PRIOR TO THE PROPOSED RELEASE OF THE STEWART REPORT EARLY IN THE BUDGET SESSION OF PARLIAMENT.

7. THE COMMITTEE DECIDED TO ESTABLISH A SMALL INFORMAL WORKING GROUP TO CLOSELY EXAMINE THE STEWART REPORT AS TO WHAT DELETIONS SHOULD BE MADE FOR PUBLIC RELEASE. THIS WG IS BEING CO-ORDINATED BY SMOS AND WILL ALSO INVOLVE AG'S, DPP AND AFP. AS OUR INTERESTS (AND THE BANK'S) ARE RELATIVELY LIMITED, WE SUGGESTED TO MEETING THAT WE MIGHT ADVISE SMOS IN WRITING OF OUR VIEWS REGARDING THIS MATTER. WE INDICATED THAT WE NEEDED TO CONSIDER, FOR EXAMPLE, THE REFERENCES TO THE INDIVIDUAL NAMED IN SECTION 7 OF PART 4.

8. WE WOULD BE GRATEFUL FOR YOUR VIEWS AND COMMENTS ON THE NEED OR OTHERWISE, FROM YOUR PERSPECTIVE, AS TO WHETHER SECTION 7 OF PART 4 SHOULD BE EXCLUDED FROM PUBLIC RELEASE. IF DELETION WERE NECESSARY IN YOUR VIEW, PRESUMABLY THERE WOULD BE A NEED FOR ~~CONSEQUENTIAL DELETION~~^S ~~IN PART 2~~ (EG, PARAGRAPH 2.64). WE, OF COURSE, ARE ALSO SEEKING YOUR ADVICE AS TO WHETHER YOU CONSIDER FROM YOUR PERSPECTIVE THERE IS A NEED TO DELETE ANY OTHER REFERENCES IN THE REPORT FOR PUBLIC RELEASE.

9. WE WOULD BE GRATEFUL FOR YOUR RESPONSE IN RELATION TO THE POINTS ABOVE (PARAGRAPHS 4 AND 8 IN PARTICULAR).

Jul 29 12 15 PM '85

DEPT. TREASURY
REGISTRY

THE COMMITTEE DISCUSSED BRIEFLY DRAFT GUIDELINES ON THE
PUBLICATION OF NAMES IN PUBLIC REPORTS ON LAW ENFORCEMENT
MATTERS. (THESE GUIDELINES ARE BEING PREPARED APPARENTLY IN
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AND AET. AS OUR INTERESTS (AND THE BANK'S) ARE RELATIVELY
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WRITING OF OUR VIEWS REGARDING THIS MATTER. WE INDICATED
THAT WE WISHED TO CONSIDER, FOR EXAMPLE, THE REFERENCES TO
THE INDIVIDUAL NAMED IN SECTION 7 OF PART A.

8. WE WOULD BE GRATEFUL FOR YOUR VIEWS AND COMMENTS ON THE
NEED OR OTHERWISE, FROM YOUR PERSPECTIVE, AS TO WHETHER
SECTION 7 OF PART A SHOULD BE EXCLUDED FROM PUBLIC RELEASE.
IF DELETION WERE NECESSARY IN YOUR VIEW, PRESUMABLY THERE
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PARAGRAPH 2.64). WE, OF COURSE, ARE ALSO SEEKING YOUR ADVICE
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NEED TO DELETE ANY OTHER REFERENCES IN THE REPORT FOR PUBLIC
RELEASE.

9. WE WOULD BE GRATEFUL FOR YOUR RESPONSE IN RELATION TO THE
POINTS ABOVE (PARAGRAPHS 4 AND 8 IN PARTICULAR).

1984
Nov. Press Statement by

P.M. re inexactness publication
of names of people identified
in reports of R.C.'s etc.

- Chris Ba to send me a copy

AMF
29/7

A.M. HINTON

B116A

3044

CONFIDENTIAL

A.M. HINTON

29 7 85

PRIORITY

Sgd. A. M. HINTON

29 7 85

SECRETARY'S DEPARTMENT

RESERVE BANK OF AUSTRALIA

SYDNEY

FINANCIAL INSTITUTIONS DIVISION
TREASURY CANBERRA

STEWART REPORT: NUGAN HAND GROUP

(ATTENTION MR D. MCKENNA)

THANKS YOUR TELEX RST278 OF 23 JULY.

2. A NUMBER OF MATTERS AROSE AT MEETING OF THURSDAY 25 JULY OF THE OFFICIALS COMMITTEE ON LAW ENFORCEMENT IN RELATION TO STEWART REPORT THAT ARE OF INTEREST TO RESERVE BANK (VIZ, BANKERS' OPINIONS AND PUBLIC RELEASE OF REPORT).

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4. SUBJECT TO YOUR VIEWS, WE SUGGEST WE DRAFT A LIST OF MATTERS ON WHICH MORE INFORMATION IS REQUIRED (EG, BASED ON PARAGRAPH 3 OF YOUR TELEX) ON WHICH COMMENTS COULD BE SOUGHT FROM YOU AND AG'S. THIS LIST COULD INDICATE WHICH MEMBERS OF THE WG SHOULD BE PRIMARILY RESPONSIBLE FOR OBTAINING ADDITIONAL INFORMATION (EG, AG'S ON LEGAL QUESTIONS AND RBA CONSULTATION WITH ABA). FOLLOWING YOUR RESPONSE TO THIS TELEX WE PROPOSE WRITING TO AG'S ACCORDINGLY.

5. AT MEETING ON 25 JULY, CHAIRMAN OF COMMITTEE (NEIL MCINNES, DEPUTY SECRETARY, PM&C) REFERRED TO STEWART RECOMMENDATION THAT REPORT BE RELEASED IN FULL EXCEPT FOR THE DELETION OF PART 10. AG'S REPRESENTATIVES EXPRESSED CONCERN WITH THIS COURSE OF ACTION AND SOUGHT CONSIDERATION OF DELETION OF MORE MATERIAL BEFORE RELEASE. THEY WERE PARTICULARLY CONCERNED THAT RELEASE OF NAMES MIGHT BE PREJUDICIAL TO SUCH MATTERS AS: THE RULES OF NATURAL JUSTICE; CONDUCT OF INVESTIGATIONS OF BREACHES OF LAW; AND PROSECUTION PROCESSES. SOME OTHERS AT THE MEETING EXPRESSED SIMILAR CONCERN. THE CHAIRMAN (AND TO SOME EXTENT, SPECIAL MINISTER OF STATE REPRESENTATIVE) NOTED THAT TOO MUCH DELETION IN THE PUBLICALLY RELEASED VERSION WOULD MAKE IT UNREADABLE AND COULD LEAD TO CRITICISM THAT THE GOVERNMENT WAS INVOLVED IN A 'COVER UP'. THE CHAIRMAN ALSO NOTED THAT THE REPORT WOULD BE RELEASED UNDER PARLIAMENTARY PRIVILEGE. ON THE OTHER HAND, REFERENCE WAS MADE TO THE PRIME MINISTER'S COMMENTS IN THE CONTEXT OF REACTION TO THE COSTIGAN REPORT OF THE IMPORTANCE OF THE GOVERNMENT HANDLING APPROPRIATELY REPORTS WHICH NAMED INDIVIDUALS WHO HAD YET TO BE PROVED TO BREACHED LAW.

6. THE COMMITTEE DISCUSSED BRIEFLY DRAFT GUIDELINES ON THE PUBLICATION OF NAMES IN PUBLIC REPORTS ON LAW ENFORCEMENT MATTERS (THESE GUIDELINES ARE BEING PREPARED APPARENTLY IN RESPONSE TO A PREVIOUS DECISION BY GOVERNMENT). HOWEVER, THESE GUIDELINES WILL NOT BE FINALISED PRIOR TO THE PROPOSED RELEASE OF THE STEWART REPORT EARLY IN THE BUDGET SESSION OF PARLIAMENT.

7. THE COMMITTEE DECIDED TO ESTABLISH A SMALL INFORMAL WORKING GROUP TO CLOSELY EXAMINE THE STEWART REPORT AS TO WHAT DELETIONS SHOULD BE MADE FOR PUBLIC RELEASE. THIS WG IS BEING CO-ORDINATED BY SMOS AND WILL ALSO INVOLVE AG'S, DPP AND APP. AS OUR INTERESTS (AND THE BANK'S) ARE RELATIVELY LIMITED, WE SUGGESTED TO MEETING THAT WE MIGHT ADVISE SMOS IN WRITING OF OUR VIEWS REGARDING THIS MATTER. WE INDICATED THAT WE NEEDED TO CONSIDER, FOR EXAMPLE, THE REFERENCES TO THE INDIVIDUAL NAMED IN SECTION 7 OF PART 4.

8. WE WOULD BE GRATEFUL FOR YOUR VIEWS AND COMMENTS ON THE NEED OR OTHERWISE, FROM YOUR PERSPECTIVE, AS TO WHETHER SECTION 7 OF PART 4 SHOULD BE EXCLUDED FROM PUBLIC RELEASE. IF DELETION WERE NECESSARY IN YOUR VIEW, PRESUMABLY THERE WOULD BE A NEED FOR A CONSEQUENTIAL DELETION ^S ~~IN PART 2~~ (EG, PARAGRAPH 2.64). WE, OF COURSE, ARE ALSO SEEKING YOUR ADVICE AS TO WHETHER YOU CONSIDER FROM YOUR PERSPECTIVE THERE IS A NEED TO DELETE ANY OTHER REFERENCES IN THE REPORT FOR PUBLIC RELEASE.

9. WE WOULD BE GRATEFUL FOR YOUR RESPONSE IN RELATION TO THE POINTS ABOVE (PARAGRAPHS 4 AND 8 IN PARTICULAR).

A.M. HINTON

B116A

3044

CONFIDENTIAL

A.M. HINTON

29 7 85

PRIORITY

Sgd. A. M. HINTON

29 7 85

SECRETARY'S DEPARTMENT

RESERVE BANK OF AUSTRALIA

SYDNEY

FINANCIAL INSTITUTIONS DIVISION
TREASURY CANBERRA

STEWART REPORT: NUGAN HAND GROUP

(ATTENTION MR D. MCKENNA)

THANKS YOUR TELETYPE MESSAGE OF 23 JULY.

2. A NUMBER OF MATTERS AROSE AT MEETING OF THURSDAY 25 JULY OF THE OFFICIALS COMMITTEE ON LAW ENFORCEMENT IN RELATION TO STEWART REPORT THAT ARE OF INTEREST TO RESERVE BANK (VIZ, BANKERS' OPINIONS AND PUBLIC RELEASE OF REPORT).

3. WITH REGARD TO BANKERS' OPINIONS AND CONSISTENT WITH YOUR TELETYPE AND OUR DISCUSSIONS, MEETING ACCEPTED OUR SUGGESTION THAT A SMALL INFORMAL WORKING GROUP (COMPRISING REPRESENTATIVES FROM TREASURY, RESERVE BANK AND ATTORNEY-GENERAL'S DEPARTMENT) BE ESTABLISHED TO CONSIDER STEWART REPORT RECOMMENDATION 11.2 (PAGE 1099), WITH CONSULTATIONS AS APPROPRIATE BEING UNDERTAKEN WITH ABA.

Mr Mallory
Att Nugan file

Mr Mallory
Att Noyan file

4. SUBJECT TO YOUR VIEWS, WE SUGGEST WE DRAFT A LIST OF MATTERS ON WHICH MORE INFORMATION IS REQUIRED (EG, BASED ON PARAGRAPH 3 OF YOUR TELEX) ON WHICH COMMENTS COULD BE SOUGHT FROM YOU AND AG'S. THIS LIST COULD INDICATE WHICH MEMBERS OF THE VC SHOULD BE PRIMARILY RESPONSIBLE FOR OBTAINING ADDITIONAL INFORMATION (EG, AG'S ON LEGAL QUESTIONS AND REA CONSULTATION WITH AEA). FOLLOWING YOUR RESPONSE TO THIS TELEX WE PROPOSE WRITING TO AG'S ACCORDINGLY.

5. AT MEETING ON 25 JULY, CHAIRMAN OF COMMITTEE (NEIL MCINNES, DEPUTY SECRETARY, PMAC) REFERRED TO STEWART RECOMMENDATION THAT REPORT BE RELEASED IN FULL EXCEPT FOR THE DELETION OF PART 16. AG'S REPRESENTATIVES EXPRESSED CONCERN WITH THIS COURSE OF ACTION AND SOUGHT CONSIDERATION OF DELETION OF MORE MATERIAL BEFORE RELEASE. THEY WERE PARTICULARLY CONCERNED THAT RELEASE OF NAMES MIGHT BE PREJUDICIAL TO SUCH MATTERS AS: THE RULES OF NATURAL JUSTICE; CONDUCT OF INVESTIGATIONS OF BREACHES OF LAW; AND PROSECUTION PROCESSES. SOME OTHERS AT THE MEETING EXPRESSED SIMILAR CONCERN. THE CHAIRMAN (AND TO SOME EXTENT, SPECIAL MINISTER OF STATE REPRESENTATIVE) NOTED THAT TOO MUCH DELETION IN THE PUBLICLY RELEASED VERSION WOULD MAKE IT UNREADABLE AND COULD LEAD TO CRITICISM THAT THE GOVERNMENT WAS INVOLVED IN A 'COVER UP'. THE CHAIRMAN ALSO NOTED THAT THE REPORT WOULD BE RELEASED UNDER PARLIAMENTARY PRIVILEGE. ON THE OTHER HAND, REFERENCE WAS MADE TO THE PRIME MINISTER'S COMMENTS IN THE CONTEXT OF REACTION TO THE COSTIGAN REPORT OF THE IMPORTANCE OF THE GOVERNMENT HANDLING APPROPRIATELY REPORTS WHICH NAMED INDIVIDUALS WHO HAD YET TO BE PROVED TO BREACH LAW.

Mr Mallory 405
53
Att Noyan file

6. THE COMMITTEE DISCUSSED BRIEFLY DRAFT GUIDELINES ON THE PUBLICATION OF NAMES IN PUBLIC REPORTS ON LAW ENFORCEMENT MATTERS (THESE GUIDELINES ARE BEING PREPARED APPARENTLY IN RESPONSE TO A PREVIOUS DECISION BY GOVERNMENT). HOWEVER, THESE GUIDELINES WILL NOT BE FINALISED PRIOR TO THE PROPOSED RELEASE OF THE STEWART REPORT EARLY IN THE BUDGET SESSION OF PARLIAMENT.

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8. WE WOULD BE GRATEFUL FOR YOUR VIEW AND COMMENTS ON THE NEED OR OTHERWISE, FROM YOUR PERSPECTIVE, AS TO WHETHER SECTION 7 OF PART 4 SHOULD BE EXCLUDED FROM PUBLIC RELEASE. IF ~~DELETION~~ WERE NECESSARY IN YOUR VIEW, PRESUMABLY THERE WOULD BE A NEED FOR A CONSEQUENTIAL DELETION ^S ~~IN PART 4~~ (EG, PARAGRAPH 2.66). WE, OF COURSE, ARE ALSO SEEKING YOUR ADVICE AS TO WHETHER YOU CONSIDER FROM YOUR PERSPECTIVE THERE IS A NEED TO DELETE ANY OTHER REFERENCES IN THE REPORT FOR PUBLIC RELEASE.

9. WE WOULD BE GRATEFUL FOR YOUR RESPONSE IN RELATION TO THE POINTS ABOVE (PARAGRAPHS 4 AND 8 IN PARTICULAR).

Some References to Scott - Kennis

p39, 258 183, 298, 409, 433
 457, 469, 801-
 +

See Part 4, Section 1

2.69 Page 269
 Leonard Stiles - En F.A. & Co

3.2.11 to 3.2.17 Young / Scott & Kennis

Past ARO officers, E. Harland, p397

Mr R. G. McKinnon - See Part 4, Section 8.
 p447,

TO SECRETARY'S DEPARTMENT
RESERVE BANK OF AUSTRALIA
SYDNEY

FROM FINANCIAL INSTITUTIONS DIVISION, *TREASURY*
CANBERRA

(ATTENTION MR D. MCKENNA)

CONFIDENTIAL PRIORITY

STEWART REPORT: NUGAN HAND GROUP

THANKS YOUR TELEX RBST278 OF 23 JULY.

2. A NUMBER OF MATTERS AROSE AT MEETING OF THURSDAY 25 JULY OF THE OFFICIALS COMMITTEE ON LAW ENFORCEMENT IN RELATION TO ~~THE~~ STEWART REPORT THAT ARE OF INTEREST TO RESERVE BANK (VIZ, BANKERS' OPINIONS AND PUBLIC RELEASE OF REPORT).

3. WITH REGARD TO BANKERS' OPINIONS AND CONSISTENT WITH YOUR TELEX AND OUR DISCUSSIONS, MEETING ACCEPTED OUR SUGGESTION THAT A SMALL INFORMAL WORKING GROUP (COMPRISING REPRESENTATIVES FROM TREASURY, RESERVE BANK AND ATTORNEY-GENERAL'S DEPARTMENT) BE ESTABLISHED TO CONSIDER STEWART REPORT RECOMMENDATION 11.8 (PAGE 1099), WITH CONSULTATIONS AS APPROPRIATE BEING UNDERTAKEN WITH ABA.

Mr. McKenna
Mr. McKenna

83/63/51

Confidential
For your
view / comments
Please

OK 29/7

28
50
7
4. SUBJECT TO YOUR VIEWS WE SUGGEST WE DRAFT A LIST OF
MATTERS ON WHICH MORE INFORMATION IS REQUIRED (EG BASED ON
PARAGRAPH 3 OF YOUR TELEX) ON WHICH COMMENTS COULD BE SOUGHT
FROM YOURSELF AND AG'S. THIS LIST COULD INDICATE WHICH ~~MEMBERS~~ ^{MEMBERS}
~~OF WG~~ ^{PRIMARILY} INSTITUTIONS SHOULD BE RESPONSIBLE FOR OBTAINING ADDITIONAL
INFORMATION (EG, AG'S ON LEGAL QUESTIONS AND RBA CONSULTATION
WITH ABA) FOLLOWING YOUR RESPONSE TO THIS TELEX WE WOULD
PROPOSE WRITING TO AG'S ACCORDINGLY.

NEIL
5. AT MEETING ON 25 JULY, CHAIRMAN OF COMMITTEE (H.L. MCINNIS,
DEPUTY SECRETARY, PM&C) REFERRED TO STEWART RECOMMENDATION
THAT ~~THE~~ ^{PART} REPORT BE RELEASED IN FULL EXCEPT FOR THE DELETION
OF CHAPTER 10. AG'S REPRESENTATIVES EXPRESSED CONCERN WITH
THIS COURSE OF ACTION AND SOUGHT ^{CONSIDERATION OF} DELETION OF MORE MATERIAL
BEFORE RELEASE. THEY WERE PARTICULARLY CONCERNED ABOUT
RELEASE OF ^{SOME} NAMES THAT MIGHT BE PREJUDICIAL TO SUCH MATTERS
AS: THE RULES OF NATURAL JUSTICE ^{ES} CONDUCT OF AN INVESTIGATION
OF A BREACH OF LAW AND PROSECUTION PROCESSES. SOME OTHERS AT
THE MEETING EXPRESSED SIMILAR CONCERN. THE CHAIRMAN (AND TO
SOME EXTENT, ⁶ SENIOR MINISTER OF STATE REPRESENTATIVE) NOTED
THAT TOO MUCH DELETION IN THE PUBLICALLY RELEASED VERSION
WOULD MAKE IT UNREADABLE AND COULD LEAD TO CRITICISM THAT THE
GOVERNMENT WAS INVOLVED IN A 'COVER UP'. THE CHAIRMAN ALSO

NOTED THAT THE REPORT WOULD BE RELEASED UNDER PARLIAMENTARY
 PRIVILEGE ^{ON THE OTHER HAND) WAS,} ~~AGAINST THIS~~ REFERENCE ^{MADE} TO THE PRIME MINISTER'S
 COMMENTS IN THE CONTEXT OF REACTION TO THE COSTIGAN REPORT OF
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 BREACHED ^A LAW.

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 MATTERS (THESE GUIDELINES ARE BEING PREPARED APPARENTLY IN
 RESPONSE TO A PREVIOUS DECISION BY GOVERNMENT) HOWEVER, THESE
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7. THE COMMITTEE DECIDED TO ESTABLISH A SMALL INFORMAL
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 AND AFP. AS OUR INTERESTS ^{THE} (AND THE BANK'S) ARE RELATIVELY
 LIMITED ^{ED TO MEETING} WE SUGGEST THAT WE MIGHT ADVISE SMOS IN WRITING OF
 OUR VIEWS REGARDING THIS MATTER. WE INDICATED THAT WE NEEDED
 TO CONSIDER, FOR EXAMPLE, THE REFERENCES TO THE INDIVIDUAL IDENTIFIED
 NAMED IN SECTION 7 OF PART 4 ^{AND} ^{IN OTHER PLACES IN}
 THE REPORT).

8. WE WOULD BE GRATEFUL FOR YOUR VIEWS AND COMMENTS ON THE

(and any other references to the reference 36
do not include in page 183) 48

?
? NEED OR OTHERWISE FROM YOUR PERSPECTIVE AS TO WHETHER
SECTION 7 OF PART 4 SHOULD BE EXCLUDED FROM PUBLIC RELEASE.
? IF DELETION WERE NECESSARY IN YOUR VIEW, PRESUMABLY THERE
WOULD BE A NEED FOR A CONSEQUENTIAL DELETION IN PART 2 (EG,
2.33 and PARAGRAPH 2.64). WE, OF COURSE, ARE ALSO SEEKING YOUR ADVICE
AS TO WHETHER YOU CONSIDER FROM YOUR PERSPECTIVE ^{THERE IS} A NEED TO
DELETE ANY OTHER REFERENCES IN THE REPORT FOR PUBLIC RELEASE.

x 9. We would be grateful for your advice in
relation to the points above (paragraphs 4 and 8 in particular).

INWARDS TELEPRINTER MESSAGE

Received

JUL 23 2:53 PM '85 a.m./p.m.

DELIVER TO:

A. HINTON

IMMEDIATE

cc Mr Beetham
Mr Hinton (CR)
Mr Fife

Mr Mallory
ATT 83/631

RBST 278 23/7/85 SYDNEY RBST 278

CONFIDENTIAL

HINTON TREASURY CANBERRA FROM MCKENNA RESERVE BANK SYDNEY

CONFIDENTIAL

IMMEDIATE

STEWART REPORT - NUGAN HAND GROUP

1. YOUR MESSAGE NO. 9475 OF 17/7/85.
2. BANKERS' OPINIONS HAVE ALWAYS BEEN DIFFICULT FOR BANKS TO HANDLE WITH FAIRNESS TO ALL PARTIES. THEIR OBLIGATIONS IN GIVING WRITTEN OPINIONS HAVE BEEN A SUBJECT DEVELOPED IN LEGAL ACTIONS OVER THE YEARS. WHETHER SPECIFIC LEGISLATION WOULD BE A STEP FORWARD IS MOOT.
3. PERHAPS A FIRST STEP COULD BE TO DEVELOP, IN CONSULTATION WITH BANKS AND OTHER RELEVANT PARTIES, MORE COMPLETE INFORMATION ON:
 - THE LEGAL STANDING OF, AND ACCEPTED PRACTICE WITH, OPINIONS IN OTHER COUNTRIES,
 - CURRENT LEGAL POSITION OF OPINIONS AND BANKERS' OBLIGATIONS IN AUSTRALIA,
 - GUIDELINES USED BY BANKS TO CONTROL THE ISSUE OF OPINIONS IN AUSTRALIA AND IN OTHER COUNTRIES.
- WE WOULD BE HAPPY TO CO-OPERATE IN THIS IF IT WOULD BE HELPFUL.
4. CONSIDERATION COULD BE GIVEN TO THE SPECIFIC STEWART RECOMMENDATION WHEN THIS DATA HAD BEEN COLLECTED AND ASSESSED.

CONFIDENTIAL

CONFIDENTIAL

18/7
Mr. R. Hinton
to me

34
46

Acting First Assistant Secretary
Tax Policy Division

Mr. Edwards

Mr. Fife

ATFpl 23/7

Mr. Mallory

ATF 83/631

STEWART REPORT: NUCAN FAND GROUP
TAX HAVENS

We have been invited to attend on Thursday 25 July a meeting of the Officials Committee on Law Enforcement in relation to the Final Report of the Royal Commission of Inquiry into the Activities of the Nukan Fand Group (Stewart Report). While an agenda for this meeting has yet to be provided, we understand that the purpose will be to discuss the handling of the Stewart Report in relation to the Government's response to it. At some stage a statement will be drafted for presentation of the Report to Parliament (probably by the Special Minister of State). We think it unlikely that the meeting on 25 July will get down to specific details, but we expect some discussion to take place on the handling of the policy recommendations of the Report, the state of play regarding prosecutions for alleged breaches of Commonwealth law and the question of what parts of the Report could be released to the public.

2. There are a number of matters in the Report that are of interest to Tax Policy Division. Attached are copies of Section 4, Part 4: 'Access to Relevant Records Denied - the Effect of Cayman Islands Law' and Part 5: 'Allegations of Money Laundering and Tax Evasion', and recommendation 11.5: 'Tax Havens'. A copy of the complete Report is held by Mr. Einton of this Division for your perusal if you would so wish.

3. At this stage it is unclear as to what input might be necessary for the meeting scheduled for 25 July. However, we would be grateful for your preliminary comments on recommendation 11.5.

Sgt. A. M. HINTON

F. M. Beetham
First Assistant Secretary
17 July 1985

Copy to:

Mr Moore

5997f

CONFIDENTIAL

FORWARDS TELEPRINTER MESSAGE

(Confirmed Copy)

Deliver to:

JUL 17 2:40 PM '85

A. Hinton M. M. Edwards



PRIORITY

TO DEPUTY SECRETARY, RESERVE BANK OF AUSTRALIA, SYDNEY
 FM FINANCIAL INSTITUTIONS DIVISION, TREASURY, CANBERRA
 MSG NO 9475
 17/07/85

CONFIDENTIAL

CONFIDENTIAL

STEWART REPORT: NUGAN HAND GROUP.

ATTENTION MR D. MCKENNA, SECRETARY'S DEPARTMENT.

AS DISCUSSED HINTON/MCKENNA ON TUESDAY 16 JULY, TREASURY WILL BE ATTENDING A MEETING ON THURSDAY 25 JULY OF THE OFFICIALS COMMITTEE ON LAW ENFORCEMENT IN RELATION TO THE FINAL REPORT OF THE ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP (STEWART REPORT), A COPY OF WHICH WE UNDERSTAND HAS BEEN SENT TO THE BANK.

2. WHILE AN AGENDA FOR THE MEETING HAS YET TO BE PROVIDED, WE UNDERSTAND THAT THE PURPOSE WILL BE TO DISCUSS THE HANDLING OF THE STEWART REPORT IN RELATION TO THE GOVERNMENT'S RESPONSE TO IT. AT SOME STAGE A STATEMENT WILL BE DRAFTED FOR PRESENTATION OF THE REPORT TO PARLIAMENT (PROBABLY BY SPECIAL MINISTER OF STATE). WE THINK IT UNLIKELY THAT MEETING ON 25 JULY WILL GET DOWN TO SPECIFIC DETAILS, BUT WOULD EXPECT SOME DISCUSSION TO TAKE PLACE ON THE HANDLING OF THE POLICY RECOMMENDATIONS OF THE REPORT, THE STATE OF PLAY REGARDING PROSECUTIONS FOR ALLEGED BREACHES OF COMMONWEALTH LAW AND THE QUESTION OF WHAT PARTS OF THE REPORT COULD BE RELEASED TO THE PUBLIC.

3. THERE ARE A NUMBER OF MATTERS IN THE REPORT THAT ARE OF SPECIFIC INTEREST TO THE RBA. WE, THEREFORE, PROPOSE TO KEEP YOU INFORMED OF DEVELOPMENTS REGARDING THE HANDLING OF THE REPORT AND WHERE APPROPRIATE SEEK THE BANK'S SPECIFIC INPUT AND INVOLVEMENT.

4. AT THIS STAGE IT IS UNCLEAR AS TO WHAT INPUT MIGHT BE NECESSARY FOR THE MEETING SCHEDULED FOR 25 JULY. HOWEVER, AS DISCUSSED, WE WOULD BE GRATEFUL FOR YOUR PRELIMINARY COMMENTS ON RECOMMENDATION 11. (PAGE 1099) WHICH RELATES TO SECTION 6 OF PART 4 OF THE REPORT CONCERNING 'BANKERS' OPINIONS'.

Note: Secret Registry processes all inward telex and teleprinter messages

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MESSAGE TELEX MESSAGE TELEX MESSAGE TELEX MESSAGE TELEX MESSAGE

The Treasury			Sent ⁵² 44 am pm	
Please transmit the following message and after transmission return material to:				
Name of originator A.M. HINTON		Room No B116A	Phone No 3044	Reference No
Classification COMMERCIAL IN- CONFIDENCE <i>CONFIDENTIAL</i>	Authorised (Branch Head) Name, printed A.M. HINTON		17 / 7 / 85	Message No 9475
Precedence PRIORITY	Authorised (Branch Head) Signature <i>A.M. Hinton</i>		17 / 7 / 85	
To:				
Name of Person		DEPUTY SECRETARY		
Name of Organisation		ATTENTION MR D. MCKENNA		
City or Location		THE SECRETARY'S DEPARTMENT RESERVE BANK OF AUSTRALIA SYDNEY		
Repeated:		Telex No		
Name of Person				
Name of Organisation				
City or Location		Telex No		
From				
FINANCIAL INSTITUTIONS DIVISION TREASURY CANBERRA				
Subject Heading				
STEWART REPORT: NUGAN HAND GROUP				

AS DISCUSSED HINTON/MCKENNA ON TUESDAY 16 JULY, TREASURY WILL BE ATTENDING A MEETING ON THURSDAY 25 JULY OF THE OFFICIALS COMMITTEE ON LAW ENFORCEMENT IN RELATION TO THE FINAL REPORT OF THE ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP (STEWART REPORT), A COPY OF WHICH WE UNDERSTAND HAS BEEN SENT TO THE BANK.

2. WHILE AN AGENDA FOR THE MEETING HAS YET TO BE PROVIDED, WE UNDERSTAND THAT THE PURPOSE WILL BE TO DISCUSS THE HANDLING OF THE STEWART REPORT IN RELATION TO THE GOVERNMENT'S RESPONSE TO IT. AT SOME STAGE A STATEMENT WILL BE DRAFTED FOR PRESENTATION OF THE REPORT TO PARLIAMENT (PROBABLY BY SPECIAL MINISTER OF STATE). WE THINK IT

OUTWARDS TELEPRINTER

UNLIKELY THAT MEETING ON 25 JULY WILL GET DOWN TO SPECIFIC DETAILS, BUT WOULD EXPECT SOME DISCUSSION TO TAKE PLACE ON THE HANDLING OF THE POLICY RECOMMENDATIONS OF THE REPORT, THE STATE OF PLAY REGARDING PROSECUTIONS FOR ALLEGED BREACHES OF COMMONWEALTH LAW AND THE QUESTION OF WHAT PARTS OF THE REPORT COULD BE RELEASED TO THE PUBLIC.

3. THERE ARE A NUMBER OF MATTERS IN THE REPORT THAT ARE OF SPECIFIC INTEREST TO THE RBA. WE, THEREFORE, PROPOSE TO KEEP YOU INFORMED OF DEVELOPMENTS REGARDING THE HANDLING OF THE REPORT AND WHERE APPROPRIATE SEEK THE BANK'S SPECIFIC INPUT AND INVOLVEMENT.

4. AT THIS STAGE IT IS UNCLEAR AS TO WHAT INPUT MIGHT BE NECESSARY FOR THE MEETING SCHEDULED FOR 25 JULY. HOWEVER, AS DISCUSSED, WE WOULD BE GRATEFUL FOR YOUR PRELIMINARY COMMENTS ON RECOMMENDATION 11.8 (PAGE 1099) WHICH RELATES TO SECTION 6 OF PART 4 OF THE REPORT CONCERNING 'BANKERS' OPINIONS'.

JUL 17 11 22 AM '85
DEPT. TREASURY
REGISTRY

...SPECIFIC THAT MEETING ON 22 JULY WILL NOT BE DOMESTIC...
...DETAILS, BUT WOULD EXPECT SOME DISCUSSION TO TAKE PLACE ON...
...THE HANDLING OF THE POLICE...
...STATE OF FLA. REGARDING PROSECUTION FOR ALLEGED VIOLATIONS OF...
...COMMONWEALTH LAW AND THE...
...COULD BE RELEASED TO THE PUBLIC.

3. THERE ARE A NUMBER OF MATTERS IN THE REPORT THAT ARE OF...
...SPECIFIC INTEREST TO THE BIA. WE, THEREFORE, PROPOSE TO KEEP...
...YOU INFORMED OF DEVELOPMENTS REGARDING THE HANDLING OF THE...
...REPORT AND WOULD APPROPRIATE SEEK THE BIA'S SPECIFIC INPUT...
...AND INVOLVEMENT.

4. AT THIS STAGE IT IS UNCLEAR AS TO WHAT INPUT MIGHT BE...
...NECESSARY FOR THE MEETING SCHEDULED FOR 22 JULY. HOWEVER, AS...
...DISCUSSED, WE WOULD BE GRATEFUL FOR YOUR PRELIMINARY COMMENTS...
...ON RECOMMENDATION 11.8 (PAGE 109) WHICH RELATES TO SECTION 6...
...OF PART 6 OF THE REPORT CONCERNING 'BANKERS' ORIGINALLY'.

Acting First Assistant Secretary
Tax Policy Division

STEWART REPORT: NUGAN HAND GROUP
TAX HAVENS

We have been invited to attend on Thursday 25 July a meeting of the Officials Committee on Law Enforcement in relation to the Final Report of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group (Stewart Report). While an agenda for this meeting has yet to be provided, we understand that the purpose will be to discuss the handling of the Stewart Report in relation to the Government's response to it. At some stage a statement will be drafted for presentation of the Report to Parliament (probably by the Special Minister of State). We think it unlikely that the meeting on 25 July will get down to specific details, but we expect some discussion to take place on the handling of the policy recommendations of the Report, the state of play regarding prosecutions for alleged breaches of Commonwealth law and the question of what parts of the Report could be released to the public.

2. There are a number of matters in the Report that are of interest to Tax Policy Division. Attached are copies of Section 4, Part 4: 'Access to Relevant Records Denied - the Effect of Cayman Islands Law' and Part 9: 'Allegations of Money Laundering and Tax Evasion', and recommendation 11.5: 'Tax Havens'. A copy of the complete Report is held by Mr Hinton of this Division for your perusal if you would so wish.

3. At this stage it is unclear as to what input might be necessary for the meeting scheduled for 25 July. However, we would be grateful for your preliminary comments on recommendation 11.5.

Sgd. A. M. HINTON

R.M. Beetham
First Assistant Secretary
17 July 1985

Mr Mullery
Copy to:

Mr Moore

A.M. HINTON

B116A

3044

~~CONFIDENTIAL~~
CONFIDENTIAL

A.M. HINTON

17 7 85

PRIORITY

Sgd. A. M. HINTON

17 7 85

DEPUTY SECRETARY
ATTENTION MR D. MCKENNA
THE SECRETARY'S DEPARTMENT
RESERVE BANK OF AUSTRALIA
SYDNEY

FINANCIAL INSTITUTIONS DIVISION
TREASURY CANBERRA

STEWART REPORT: NUGAN HAND GROUP

AS DISCUSSED HINTON/MCKENNA ON TUESDAY 16 JULY, TREASURY WILL BE ATTENDING A MEETING ON THURSDAY 25 JULY OF THE OFFICIALS COMMITTEE ON LAW ENFORCEMENT IN RELATION TO THE FINAL REPORT OF THE ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP (STEWART REPORT), A COPY OF WHICH WE UNDERSTAND HAS BEEN SENT TO THE BANK.

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Mr M Edwards
Mr Fiske
Mrs. ATT.
83/631

29
40

Mrs. *ADP*
83/631

UNLIKELY THAT MEETING ON 25 JULY WILL GET DOWN TO SPECIFIC
DETAILS, BUT WOULD EXPECT SOME DISCUSSION TO TAKE PLACE ON
THE HANDLING OF THE POLICY RECOMMENDATIONS OF THE REPORT, THE
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OF PART 4 OF THE REPORT CONCERNING 'BANKERS' OPINIONS'.

CONFIDENTIAL

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38

F84/276

27 MAY 1985

The Secretary
Attorney-General's Department
Robert Garran Offices
BARTON ACT 2600

ATTENTION Ms M. Jackson

IMPLEMENTATION OF STEWART ROYAL COMMISSION RECOMMENDATION
NO 66

I refer to your memoranda of 21 November 1984 and 8 February 1985 seeking advice on the progress in implementing recommendation 66 of the Stewart Royal Commission for inclusion in your report to the Attorney-General. I also refer to subsequent advice from Mr Fisk to Ms Jackson that this recommendation has been under consideration in the context of the Government's response to similar recommendations by the Costigan Royal Commission and the NCSC's Ad Hoc Committee on Banking Practices and Procedures.

The present position in respect of recommendation 66 is that the subject matter is under consideration by the Working Group of officials established in accordance with Cabinet Decision No 5183 of 1 April 1985 to examine the Costigan recommendations on controls on the operation of accounts with financial institutions. The Cabinet Decision requires the Treasurer to, inter alia, bring forward a Cabinet Submission on the working group's report by 28 June 1985. Your Department is represented on this working group by Mr R. Burns, Business Affairs Division.

[Handwritten signature] 27/5
A.
R.M. Beetham
First Assistant Secretary

CONFIDENTIAL



Commonwealth
of Australia

Stewart file 83/241 26 37
Gazette

No. S 129, Monday, 15 April 1985

Published by the Australian Government Publishing Service, Canberra

SPECIAL

COMMONWEALTH OF AUSTRALIA

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

To:

DONALD GERARD STEWART

GREETINGS:

WHEREAS by Letters Patent issued in Our name by Our Administrator of the Government of the Commonwealth of Australia on 25 June 1981 We appointed you to be a Commissioner to inquire into and report upon certain matters relating to Terrence John Clark and persons associated with him:

AND WHEREAS by Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on 28 March 1983 the first-mentioned Letters Patent were varied so as to require that you make inquiry into certain matters relating to the activities of the Nugan Hand Group and of persons, organisations or bodies associated with the Nugan Hand Group:

AND WHEREAS the Letters Patent issued on 25 June 1981, as affected by the Letters Patent issued on 28 March 1983, 15 December 1983 and 27 June 1984, require that, not later than 31 December 1984, you furnish to Our Governor-General of the Commonwealth of Australia a report of the results of your inquiry and your recommendations:

AND WHEREAS it is desirable that further time be allowed for the completion of your inquiry and the submission of your report:

NOW THEREFORE We Do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and in pursuance of the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and other enabling powers, vary the Letters Patent issued on 25 June 1981, as affected by the Letters Patent issued on 28 March 1983, so as to require that your report of the results of your inquiry and your recommendations be furnished to Our Governor-General of the Commonwealth of Australia not later than 30 April 1985.

(L.S.) WITNESS His Excellency the Right Honourable Sir Ninian Martin Stephen, a member of Her Majesty's Most Honourable Privy Council, Knight of the Order of Australia, Knight Grand Cross of The Most Distinguished Order of Saint Michael and Saint George, Knight Grand Cross of The Royal Victorian Order, Knight Commander of The Most Excellent Order of the British Empire, Governor-General of the Commonwealth of Australia.

Dated this 21st day of December 1984.

N. M. STEPHEN
Governor-General

By His Excellency's Command,
LIONEL BOWEN
Attorney-General
for and on behalf of the Prime Minister

Printed by C. J. THOMPSON,
Commonwealth Government Printer, Canberra
11692/85 Cat. No. 85 5977 3
Recommended retail price 20c (plus postage)

"The Age" Friday 7 December 1984

83/241

Justice

By LINDSAY MURDOCH

The Royal Commissioner into drug trafficking, Mr Justice Stewart, will report early next year on allegations that America's Central Intelligence Agency played a role in illicit activities of the failed Nugan Hand banking group.

Mr Justice Stewart has examined in Australia and America the relations which linked former senior agents with the group before its collapse in 1980. Australian police officers yesterday that a Sydney arms dealer linked to the CIA by an Italian investigating magistrate was believed to have had dealings with a founder of the bank, Michael Hand, who has disappeared.

The Age reported yesterday that Italian magistrate Carlo Perrino has claimed he has uncovered circumstantial evidence that

Australia was a base for the CIA's trafficking in drugs and armaments. Police said that investigators working for the Williams Royal Commission on drugs in 1980 seized evidence which indicated dealings between Hand, who was said to have worked for the CIA in Vietnam, and the Sydney businessman, Henry Eugene Bartholomew. Two senior Federal Ministers have publicly expressed doubts about previous assurances given by the United States that the CIA had no ties with the Nugan Hand banking group, which was alleged to have been involved in illicit activities around the world, including dealing in drugs and drug trafficking.

Another Royal Commissioner, Mr Frank Costigan, QC, has said that the CIA had been involved in allegations that former CIA agent and convicted smuggler Ed Wilson had an association with an Australian pilot who had had contact with the Nugan Hand group. Mr Costigan believes that cargo from Australia is subjected to less scrutiny at overseas ports. For instance, a shipment of drugs from Australia has much less chance of being checked at a US port than if it came from Asia or the Middle East. Similarly, arms destined for the IRA or for insurgents in other countries had a better chance of escaping detection if concealed in cargo coming from Australia.

Mr Costigan found evidence of containers arriving in Australia and then vanishing, presumably to be re-vigilant on to other destinations.

The Commonwealth-New South Wales joint task force on drug trafficking reported last year that its investigation of Nugan Hand found many links between individuals connected with the bank and individuals connected "in very significant ways" with US intelligence organisations, specifically the CIA and the Office of Naval Intelligence.

"At times these links appear to have been a basic part of the ongoing activity and have the appearance of the direct involvement of the US intelligence community itself," the task force reported.

However, the task force said that taking into account all the available information, it was its view that the banking group was an entity unto itself, operated and controlled by the financial desires and excesses of Hand and his partner, Frank Nugan, who was found dead in January 1980. "At the same time there are a number of matters that give rise to serious

Stewart to report on allegations of CIA link with Nugan Hand

disquiet. This occurs because of activities ... resulting from the relationships that some of the Nugan Hand group ... had with persons of US intelligence background," the task force said.

The findings of the task force, set up in 1980 after a recommendation from the Woodward Royal Commission, caused the CIA to protest to the Australian Government through the Australian Security Intelligence Organisation about what it said was an inaccurate naming by the task force of two CIA officers and claims that the CIA had not co-operated with the task force investigators in their work.

The US Government agreed to give full co-operation to Mr Justice Stewart's inquiry.

Mr Costigan, the new head of the Australian Crime Authority, travelled to the United States in August this year. His Royal Commission powers on Nu-



gany had been more interested-

Continued: PAGE 4

M J H

W J S

Mr Mackay

Mr Birch

Tan

APF. Stuart RL phd

Thanks. Res. 6/12

gan Hand end on 31 December, and his report is expected to be issued in the first sitting of Parliament next year.

The terms of reference of the empowered to investigate any links between Nugan Hand and intelligence organisations, including the CIA.

The Foreign Minister, Mr Hayden, said in May 1982, when he was Opposition Leader, that he had rejected assurances from the US Vice-President, Mr Bush, that the CIA had not interfered in Australian politics or been involved in the Nugan Hand bank. Mr Hayden said the assurances, given by Mr Bush, could not be accepted unless Mr Bush had personally investigated the allegations.

The Deputy Leader of the ALP, Mr Bowen, said in November 1982 that finding out if intelligence agencies had been more interest-

The joint task force report said that by the time US intelligence personnel became involved in Nugan Hand in the late 1970s the group had "already commenced its death throes".

Continued: PAGE 4

83/241

"The Age"

Friday

7 December 1984.

24
35

Justice Stewart to report on allegations of CIA link

FROM PAGE 3

The task force found that Ed Wilson, a CIA agent from 1955 until 1971, supplied in 1975-76 weapons and ammunition to Michael Hand in Africa. According to the task force, Frank Nugan, who was found by a coroner to have committed suicide, had written in 1975 of the supply of recoilless rifles, mortars, grenade launchers and machineguns to obviously non-government forces in Africa.

The task force found that Nugan Hand was alleged to have an involvement in the sale by the United States Navy of a spy ship to the then Iranian Government.

The report said the activities and associations from the 1960s through to the 1980s of Maurice Bernard Houghton, who established the bank's Saudi Arabian branch, suggested an intimate connection with US armed service personnel and individuals then and formerly highly-placed in the US intelligence community, and "at least one former senior member of Australia's own ASIO".

The task force report gave a description of the relationship between the US special forces (Green Berets) of which Michael Hand had been a member, and the CIA.

"For the CIA, as with all other intelligence agencies, covert action is mostly paramilitary in nature," the report said. "Although such actions are planned by professionals in the intelligence organisations, the operations themselves are to a large extent carried out by contract employees and mercenaries."

"While these contract employees tend to be a mixture of ex-military men, adventurers and mercenaries, much of the agency's manpower for special operations is furnished by the US armed services. In the South East Asian conflict of the 60s and 70s, and probably still today, the US Army's special forces provided much agency manpower for these operations. Small detachments of Green Berets were regularly placed directly under CIA control and even missions carried out outside the agency's direct command were closely watched by agency operators."

Working for the CIA in Vietnam, Hand was awarded America's second-highest gallantry award. He left Australia on a false passport in June 1980.



ATTORNEY-GENERAL'S DEPARTMENT

TEL: 71 9111

*Mr Jiffy
Mr Fisk
first letter - Philip
23
34
28/11*

*Mr Mallory - Draft
Please. 28/11*

ROBERT GARRAN OFFICES
NATIONAL CIRCUIT
BARTON A.C.T. 2600

PLEASE QUOTE:
YOUR REF:

21 November 1984
MJ:j

The Secretary,
The Treasury,
CANBERRA A.C.T. 2600

26/11

Attention Mr J. Booth

Implementation of Stewart Royal Commission Recommendations

Pursuant to Cabinet Decision 2697 this Department is required to report to the Attorney-General on progress in implementing the recommendations made by the Stewart Royal Commission.

2. In order that a report on this matter can be made I should be grateful if you could provide information on the progress in implementing recommendation 66.

*Reckoned?
Yes*

M. Jackson
(M. JACKSON)
for Acting Secretary

Not responded to - see follow-up memo of 8 Feb 1985



TREASURER



83/241
2233

Mr. [unclear] 1/10

Mr. [unclear] 8/10
Mrs. [unclear]
ADD Stewart R.L.
file
10/10/84

EMBARGO

Statement by the Treasurer, the Hon Paul Keating, MP.

Attached are the telex documents tabled by the Speaker in the House today.

I have no knowledge of ever receiving the offer outlined in the telex which refers to me.

I did not travel to Hong Kong to address any seminar.

It should have been abundantly clear to any person in possession of this series of documents that the offer referring to myself in no way carried the adverse implications implied by Mr Hall's question.

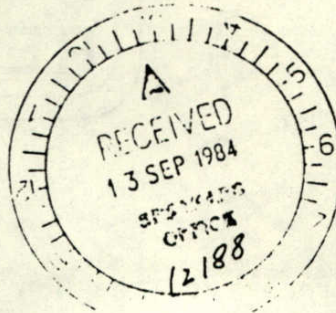
October 2 1984

Canberra.

32
ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES
OF THE NUGAN HAND GROUP

Commissioner: THE HON. MR. JUSTICE D. G. STEWART
Secretary: MR. G. R. LINNANE

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia
Telephone: (02) 358 2488



13 September 1984

Dear Dr Jenkins,

On 12 September 1984 in the House of Representatives, the Member for Boothby, Mr R. Steele Hall directed a question without notice to the Treasurer, the Hon. P.J. Keating, in the following terms:

"I draw the attention of the Treasurer to a document purporting to be a copy of the text of a telex message in the possession of the Stewart Royal Commission of Inquiry into Drug Trafficking."

Mr Steele Hall then quoted from the document to which he was referring and, after leave was granted, tabled the document concerned.

This statement has caused me grave concern. One inference that could be drawn from it is that the document in question was "leaked" from this Commission and I am presently considering what action, if any, I should take in this regard.

My purpose in writing to you as Speaker is to raise the following matters. First, should I decide it is necessary to call Mr Steele Hall before the Commission for the purpose of asking him where he obtained the document, such a course may well raise a question of Parliamentary privilege and I thought it proper to seek your guidance on that aspect at this stage. Second, I seek, through you, the permission of the House to obtain possession of the tabled document so that I might be better placed to decide what is the proper course for me to take in relation to it.

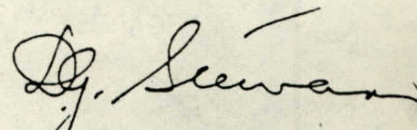
My further purpose in writing to you, as Speaker, is to bring to your attention that the apparent circumstances concerning the release of the document may amount to contempt of this Commission by a person or persons as yet unidentified. I say this because there appears to have been an unauthorised release of a Commission document (being a printout of information obtained by the Commission in the course of its inquiries and placed in a computer data bank). In addition (as will appear from the next paragraph) a reading of the tabled document in isolation and without reference to other Commission documents relevant to it may tend to place on the tabled document a construction it would not otherwise bear. These matters might be seen to interfere with the proper course of the Commission's inquiry and thus constitute a contempt. I wish to emphasise that I am not suggesting that Mr Steele Hall is in contempt of the Commission by tabling the document.

It is in this context that I am enclosing for your information the following documents:

- . copy telex HXNO 235 of 24.8.78
(this being a telex from Mr Collings, then in charge of the Nugan Hand Hong Kong office, to Mr F.J. Nugan)
- . copy telex No. 544 of 25.8.78
(this being a telex from Mr F.J. Nugan to Mr Collings)
- . copy telex HXNO 237 of 25.8.78
(this being a telex from Mr Collings to Mr F.J. Nugan)
- . copy telex No. 546 of 25 Aug 78
(this being a telex from Mr F.J. Nugan's then secretary to Mr Collings)
- . copy telex No. 239 of 30.8.78
(this being a telex from Mr Collings to Mr F.J. Nugan)
- . copy telex No. 568 of 13 Sept 78
(this being a telex from a Nugan Hand executive in the Sydney office to Mr Collings)

When the document tabled by Mr Steele Hall is read together with these copy documents the circumstances which gave rise to the creation of the tabled document seem to me to be made clear.

Yours sincerely,


Mr Justice Stewart

The Hon. Dr H.A. Jenkins, M.P.,
Speaker of the House of Representatives,
Speaker's Office,
Parliament House,
CANBERRA ACT 2600

NUHAN AA27127
83499 NUGAN HXNC 235

24.3.73

ATTN: FJH

PLEASE ADVISE ME ASAP THE SITUATION RE PROPOSAL TO HAVE NIGEL BOWEN VISIT HK ON SEPTEMBER 21, AS GUEST OF THE SPONSORS (AUSTRALIAN OVERSEAS CHINESE CLUB) FOR THE SEMINARS ON 'INVESTMENTS IN AUSTRALIA'.

REGARDS

LES

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83499 NUGAN HX
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25 AUG 78 NO. 544

FOR LES COLLINGS
REYRTLX 235

ADVISE FOLLOWING FEDERAL LABOR POLITICIAN WLD ACCEPT OFFER

THE HON. PAUL J KEATING, MHR
4TH FLOOR
COMPASS HOUSE
NORTH TERRACE
BANKSTOWN NSW 2220

KEATING IS SHADOW MINISTER FOR MINERALS AND ENERGY.

IN WHITLAM GOVT WAS MINISTER FORTH NORTHERN AUSTRALIA WHICH AT
THAT TIME WAS NOT A STATE.

WAS ALSO YOUNGEST MINISTER IN WHITLAM GOVT.

REGARDS, FJN
NUHAN AA27127P
83499 NUGAN HX

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M ☐

NUHAN AA27127
83499 NUGAN HXNO 237

25.8.78

ATTN: FJN

ORGANISERS ADVISE THAT LABOUR MEMBERS MAY BE TOO CONTROVERSIAL AND LIBERAL MEMBERS TAKE TOO LONG TO OBTAIN AN ANSWER ON WHETHER THEY WOULD ACCEPT. HAVE BEEN REQUESTED TO ASK YOU REGARDING FORMER PREMIERS I.E. GORTON, MCMAHON, SIR ROBERT ASKIN AND OTHER FORMER PREMIERS AS FIRST CHOICES. FORMER IMMIGRATION MINISTER ALSO GOOD. OBVIOUSLY PRESENT ONE WOULD BE THE BEST. IN VIEW OF TELEPHONE PROBLEM AND MONDAY BEING A HOLIDAY IN HK PLEASE TREAT THIS AS MOST URGENT.

TELEX REPLY ASAP. MANY THANKS.

REGARDS

LES

☐

NUHAN AA27127

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INTLX 371722Z
NUHAN AA27127
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80283499+

83499 NUGAN HX
NUHAN AA27127

25 AUG 1978
NO.546

FOR LES COLLINGS

ADVISE SIR WILLIAM MCMAHON AVAILABLE, DETAILS FOLLOW

MOM

RT HON WILLIAM MCMAHON MHR
MEMBER FOR LOWE (NSW) FEDERAL GOVT
LIBERAL PARTY
FORMER PRIME MINISTER
NOT NOW A MINISTER

SORRY WE DON'T SEEM TO HAVE AN ADDRESS FOR HIM BUT
CARE PARLIAMENT HOUSE
CANBERRA
WLD FIND HIM

REGARDS, PATRICIA
NUHAN AA27127Z
83499 NUGAN HX

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VOO
NUHAN AA27127
83499 NUGAN HX

NO 239

30.8.78

ATTN: FJN

AT THE SEMINAR 'INVESTING IN AUSTRALIA' ORGANISED BY THE AUSTRALIAN OVERSEAS CHINESE CLUB ON SEPT 21 AT THE HK CONVENTION CENTRE I AM TO BE ONE OF THE SPEAKERS. PROPOSED TITLE OF MY ADDRESS IS 'AUSTRALIAN INVESTMENT PROCEDURES AND OPPORTUNITIES' TIME APPROX 1 HOUR.

I WOULD APPRECIATE YOUR ASSISTANCE AND GUIDANCE ON THIS AND ALSO THAT IT MIGHT PROPERLY REFLECT THE FIRM'S ATTITUDE. THE POTENTIAL MARKET - CHINESE - IS BIG AND IT COULD BE VERY WELL REPORTED. YOUR LITERARY SKILL - IF YOU HAVE TIME - IS REQUESTED. I WILL USE MY AUSTRALIAN ACCENT TO PUT IT ACROSS WELL. KINDLY TELEX ME IF YOU HAVE ANY QUESTIONS. BY THE WAY BILLY MCMAHON HAS BEEN OFFICIALLY INVITED. NO ANSWER YET.

REGARDS

LES

✠

NUHAN AA27127V

1825

098

M
GA
020
INTLX 2561030
NUHAN AA27127
GA
80283499+
83499 NUGAN HX

13SEPT78 NO. 568

FOR LES

A MR. GIBSON TELEPHONED TODAY. HE WISH TO HAVE DETAILS OF THE OVERSEAS CHINESE MEETING AT WHICH HE IS GIVING A SPEECH AND AT WHICH HE THOUGHT YOU ARE TO GIVE A SPEECH ON THE 21ST OF THIS MONTH. CAN U PLS ADVISE DETAILS OF THE ORGANISATION AND WHAT IS THE NATURE OF THE MEETING.

REGARDS, STEVE

NUHAN AA27127+
83499 NUGAN HX

NUGAN HAND FROM THE INSIDE

Two confidential Drug Task Force documents which shed new light on the strange practices of the failed Nugan Hand Bank and on the escape from Australia of Michael Hand have been made available to The Bulletin. BRUCE STANNARD reports that one is an interview conducted in Acapulco, Mexico, with Maurice Bernard "Bernie" Houghton, the mystery man behind Nugan Hand's Saudi Arabian operations. The other, an interview with Robert Wallace Gehring, a friend of Hand, is the result of an extraordinary pact in which both the federal and New South Wales attorneys-general agreed to waive prosecution.

For three years there has been intense media specula-

tion on how Nugan Hand was run and exactly how Hand made good his escape to the United States. Now, for the first time, two men involved intimately reveal the inside story.

HOUGHTON describes in detail how \$4 million or \$5 million deposited in Saudi Arabia was converted into \$1000 travellers' cheques and taken out to Singapore; and deals with allegations of his involvement with drugs and with the CIA.

GEHRING tells of the removal of Nugan Hand files to an inner-Sydney cold store, describes how he helped to obtain a false passport for Hand and gives details of Gehring's role in covering up Hand's disappearance.

ON JUNE 9, 1981, Bernie Houghton and his San Francisco lawyer, Charles Morgan, shook hands with Kevin Woods and Bob Gray, two investigators from Australia's Commonwealth-State Joint Task Force on Drug Trafficking, and ushered them into the elegance of Houghton's suite on the 26th floor of Acapulco's luxurious Princess Hotel.

Below them, the immaculate white sands of Revolcadero Beach fringed the deep blue of the Pacific. Woods and Gray had flown 8,000km over the same ocean for what was to be an extraordinary four-day meeting with the man said to be one of the prime movers in the mysterious Nugan Hand Bank.

Houghton had left Australia in June the previous year — two weeks after the sudden disappearance of Michael Hand. Hand's partner, Frank Nugan, had been found shot dead in the January following the collapse of the international bank which bore their names.

Houghton, who subsequently had told friends he was anxious to clear his name, was to provide the first detailed insider's account of Nugan Hand's bizarre operations and of the strong personal tensions which underscored relations between Nugan and Hand and



Frank Nugan: Houghton refused to work for him

between Houghton and Nugan as well.

Houghton went quickly through his "antecedents" for the investigators. He was born in Texas in 1920 and lived in various cities in the south-western United States where his father worked as an oil driller. He was at the Southern Methodist University when the United States went to war in 1941. He enlisted in the US Air Force cadet training program and was discharged in 1946. He went into business in "restaurants, clubs, surplus war material and miscellaneous."

He went to Vietnam early in the 1960s. There he worked for a "construc-

tion material expeditor" until he came to Sydney in January 1967. He went to work for Parkes Development as a real estate salesman and opened the Bourbon and Beefsteak bar in Kings Cross in November 1967.

Houghton and Hand met socially in 1967. The two Americans (Houghton from Texas and Hand from New York) lived near each other in Kings Cross. They got on well from the outset and were seen dining together frequently in the Bourbon and Beefsteak in Darlinghurst Road.

Houghton said he had heard of Hand's combat exploits in Vietnam as early as 1964. (Hand was a highly-decorated member of the elite

Green Berets, a commando unit which often worked behind enemy lines.) Houghton said he had a "Sergeant York image" of Hand.

It was in October 1978 that Hand asked Houghton to go to Germany to review an investment Nugan Hand had there. "I advised Mike," Houghton said, "that I neither spoke German nor knew the banking business nor perhaps the banking system in Germany but he told me that my logic and my judgment were what he wanted."

"I then went for 10 days to Hamburg, Germany, with all expenses paid by Mike Hand. Mike asked me about

NEWS LIMITED

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Angeles Olympic Games. To date, 11 communist countries had announced boycotts: the Soviet Union, East Germany, Hungary, Bulgaria, Czechoslovakia, Poland, Mongolia, Vietnam, Afghanistan, Laos and Cuba. South Yemen also withdrew.

Diplomats out

THE BRITISH government has expelled two Czechoslovak diplomats "engaged in activities incompatible to their status" — the normal euphemism for spying. Also, two Soviet diplomats were ordered to leave Belgium.

Riots in India

ANOTHER week of communal violence in various parts of India has caused more death and injuries. In the country's commercial centre, Bombay, at least 170 people were killed and more than 700 wounded in clashes between armed Hindus and Moslems. In the northern state of Punjab, 22 people died and scores were injured in renewed violence as Sikh extremists campaigned for political and religious concessions.



BUSINESS

Oil's not well

BHP'S JABIRU 2 well brought groans to the stockmarket when it reached 1820 metres without any signs of significant hydrocarbons and was running intermediate logs before drilling to the total depth of 2000 metres. The well drilled past the depth where a promising oil reservoir was located in Jabiru 1A last year. Share prices of participants in the well were heavily discounted.

National surge

THE NATIONAL Australia Bank capped recent strong profit performances by the major banks with a 40 percent earnings lift to \$106.3 million in the period to March 31. The

bank also announced the largest convertible note issue in Australian corporate history. It will issue 60 million notes at \$3.40 each to raise \$204 million. The National result follows Westpac's first half earnings which were up 41.5 percent to \$143.5 million and the ANZ's 35.6 percent profit surge to \$135.9 million.

Fight for Email

EMAIL, Ltd has rejected Austram Corporation Ltd's takeover advances by unveiling a 91-percent leap in profits for the March year to \$13.4 million, a dividend increase and a bonus issue. In a separate move, Email's largest shareholder, White Consolidated Industries Ltd of the US, said it would seek federal government approval to lift

its shareholding in Email from 5 to 19.0 percent.

SPORT

Rugby league

Sydney: Penrith 22 d Parramatta 10, Cronulla 32 d Western Suburbs 6, Illawarra 18 d Manly 14, South Sydney 14 d North Sydney 6, Canberra 18 d Canterbury 14, St George 20 d Balmain 8.

Brisbane: Western Suburbs 18 d Wynnum-Manly 2, Fortitude Valley 20 d Southern Suburbs 16, Eastern Suburbs 35 d Brothers 12, Redcliffe 37 d Northern Suburbs 4.

Soccer

International matches: Australia 0 drew with Manchester United, Australia B 0 drew with Glasgow Rangers, Nottingham Forest 4 d Western Australia 1.

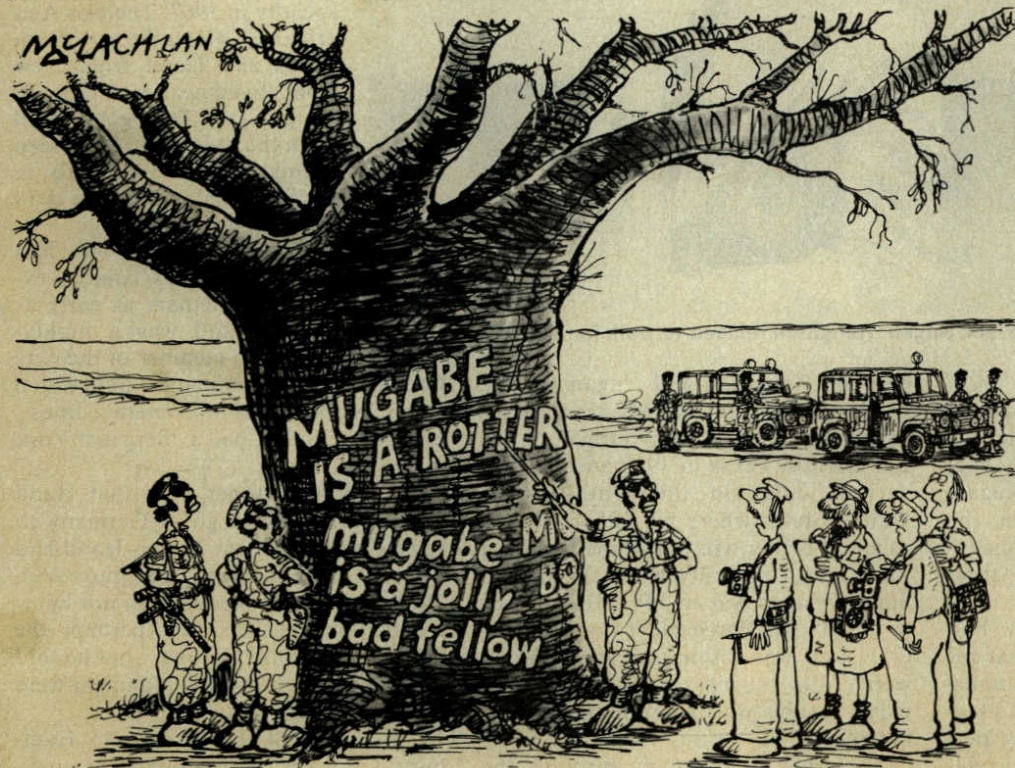
Australian football

Victoria: Swans 16.15 (111) d Geelong 7.27 (69), Richmond 24.8 (152) d St Kilda 12.16 (88), Collingwood 15.19 (109) d Fitzroy 11.16 (82), Melbourne 23.21 (159) d Footscray 11.15 (81), Essendon 16.17 (113) d Carlton 9.12 (66), Hawthorn 21.17 (143) d North Melbourne 13.8 (86).

South Australia: Central District 18.20 (128) d Sturt 15.11 (101), Glenelg 17.20 (122) d Norwood 16.7 (103), Port Adelaide 23.15 (153) d North Adelaide 19.13 (127), Woodville 25.13 (163) d West Adelaide 23.15 (153), South Adelaide 26.18 (174) d West Torrens 12.12 (84).

Western Australia: Swan Districts 14.11 (95) d South Fremantle 12.15 (87), East Perth 13.15 (93) d Perth 12.15 (87), Claremont 12.14 (86) d East Fremantle 11.6 (72), Subiaco 25.15 (165) d West Perth 15.14 (104).

Tasmania: North 14.11 (95) d Sandy Bay 9.11 (65), Glenorchy 9.6 (60) d New Norfolk 7.9 (51), Hobart 6.12 (48) d Clarence 6.11 (47).



"To be frank, these are not the atrocities we were expecting to be shown"

that time to join the organisation but I declined. Upon my return from Germany I stopped in the United States and visited with Admiral Yates, who encouraged me to join the organisation. (Earl P. Yates, a retired US Navy rear-admiral, was formerly the head of planning for the Pacific Command and a senior aide to the Secretary of the Navy. Yates joined Nugan Hand International in 1977 and was the first president of the company. He was responsible for recruiting various senior executives, including top former US military officers, to the group.)

Houghton told the investigators that he and Yates discussed the job offer for several days but the response was that he would "think about it."

Houghton went to Texas where he said he "learned of the exciting potential for business in Saudi Arabia." He discussed this with Hand in Singapore on his way back to Sydney and Hand urged him to open an office there.

"When I arrived I learned that there were many American workers there who were interested in depositing large sums of money in offshore banks, which practice was not illegal in that country. Because of the religious practices of the Saudi Arabians, interest on deposits was not readily available to the American workers at reasonable rates (in Saudi Arabia), therefore the opportunities for a bank (offshore) were obvious."

Houghton agreed to set up the Saudi Arabian operation after Hand assured him that the company was financially strong and adequately capitalised. After Houghton's third or fourth visit to Saudi Arabia he agreed to accept a full-time appointment but only after he had thrashed out an agreement with Hand that he would not be working for Nugan. Houghton insisted that he work only for the Nugan Hand Bank of the Cayman Islands which, he said, was owned solely by Hand.

Houghton said his function in Saudi Arabia was to attract deposits to the bank. He was responsible directly to Hand, who was stationed in Singapore.

"When a depositor would make a deposit at the Saudi Arabian office he would receive a certificate of deposit which would have on it the pre-signed signature of either Mike Hand, George Shaw or Steve Hill. (Shaw and Hill were both directors of the bank in Sydney.) Whoever accepted the deposit in Saudi Arabia would also sign the certificate of deposit. The customer would receive either the original certificate or a copy of his option. All copies or originals of the certificate of deposit retained by the Saudi Arabian office would then be forwarded to the Singapore office for holding."

Houghton was asked by the investi-

TWO GREAT MAGAZINES IN ONE

AUSTRALIA will soon have two great magazines in one. As from early July, the Australian edition of *Newsweek* will be incorporated in *The Bulletin*.

The Australian edition of *Newsweek* will no longer be published separately. Subscribers to the magazine will receive copies of *The Bulletin* instead, containing 24 pages of the best of *Newsweek* each week.

Newsweek will be run as a section of *The Bulletin*, including its own cover.

The merger, announced last week after months of negotiation, brings together two of the world's great magazines. *The Bulletin*, with its staff of top writers and commentators, is now the predominant Australian news magazine. *Newsweek*, created in 1933, is one of the world's top news magazines, widely respected for its coverage of international affairs.

It is the first time anywhere in the world that one of the two major international news magazines has merged with a local competitor.

The editor-in-chief of Australian Consolidated Press, Trevor Kennedy, said that coupled with *The Bulletin's* existing unsurpassed coverage of Australian affairs, the restyled publication would be extraordinarily comprehensive in its coverage of domestic and international events.

The new publication would offer a wide range of benefits to both readers and advertisers.

"It is an exciting concept which we are confident will find a big market," Kennedy said. Current subscribers to *Newsweek* will receive the new magazine. □

An amazingly expensive way of doing it
gators to explain the method of transferring deposits from Saudi Arabia to Singapore.

"All deposits," he said, "were first converted into United States travellers' cheques of denominations of \$1000 each. These were then delivered by an airline courier service directly to Singapore. This service was available six days a week.

"Concurrently to the delivery of the packet to the airline courier service, a telex in code would be sent to Mike Hand with advice as to the delivery."

Houghton said he operated the Saudi Arabian office for slightly over a year. He said he did not know the total amount of money accepted on deposit by the Saudi Arabian office for transfer to Singapore.

"But," he said, "a rough guess would be four or five million dollars Ameri-

can. That could include re-deposits..."

Houghton said he had "no actual knowledge" of where the funds were sent ultimately but, based upon what he was told, it was his guess that they went first to the Bank of the Cayman Islands and then into money markets around Australia, Hong Kong, Singapore and London for the purpose of bank-endorsed bills.

Houghton described an incident which illustrated the tension in his relationship with Nugan. Nugan had suggested that additional bank branches be opened in Saudi Arabia. He introduced Houghton to a man he identified as a cousin of George Shaw (a Nugan Hand director) and recommended that he be employed in Saudi Arabia.

"Rather than having any confrontation with Frank Nugan at the time," Houghton said, "I told him I would



Acapulco's Princess Hotel: luxury hideaway



Maurice "Bernie" Houghton: insider's account

think about it and talk to him later. Instead of contacting Frank Nugan I then contacted Mike Hand by telephone and advised him that the person suggested was not at all acceptable for many reasons and that I would not employ him. At that time I reminded Mike Hand that our agreement was that I was not to take any instructions from Frank Nugan and Mike responded by saying: "You don't have to."

Houghton described the man as a swarthy Lebanese, Jordanian or Iraqi. His general appearance, Houghton said, would not comply with what an American would expect of a conservative banker.

Houghton was asked to explain the circumstances in which the Saudi Arabian office of the Nugan Hand bank closed.

"First," he said, "I should point out that at this time there were two offices in Saudi Arabia. The first office was at Al-khobar and the second one, which was opened in March of 1980, was at Jeddah. Around April 12, 1980, I believe the office at Jeddah read in the English language Saudi newspaper that the Nugan Hand Bank in Hong Kong had been put into receivership.

"The employees at the Jeddah branch called Mike Murphy at the Al-khobar (office) and advised him. Mike Murphy then attempted to reach Mike Hand or myself. Ultimately he and I made contact by telephone. At that time I was in Washington DC. Mike Murphy related to me what he had been told about the bank and asked me what I knew about it. I informed him I was not aware of such fact.

"Mike Murphy asked me what he should do and I suggested that he contact Mike Hand and also I stated that, if it were I, I would probably leave the area. In Saudi Arabia there is a debtors prison policy and the likelihood would

be that Mike Murphy and his employees could remain in prison until the debt is paid, which could be for life."

Houghton said Murphy contacted Hand, who confirmed the receivership story and advised him to leave the country. At the same time, he said, depositors were demanding their money. All the money on hand was dispersed to the depositors.

The situation became somewhat violent, he said, and Murphy and his employees caught the first plane out of the country. The bank was damaged severely by the depositors after Murphy left the premises.

Houghton was told that members of the Joint Task Force had interviewed a man named Neil Evans who alleged he was recruited to operate the Nugan

Hand office in Chiang Mai, in northern Thailand. Houghton was told that Evans had made a lengthy statement and a number of serious allegations. Investigator Woods showed Houghton the statement and asked him if he wished to consult his lawyer.

"No," Houghton said, "there is no need. The allegations are completely false."

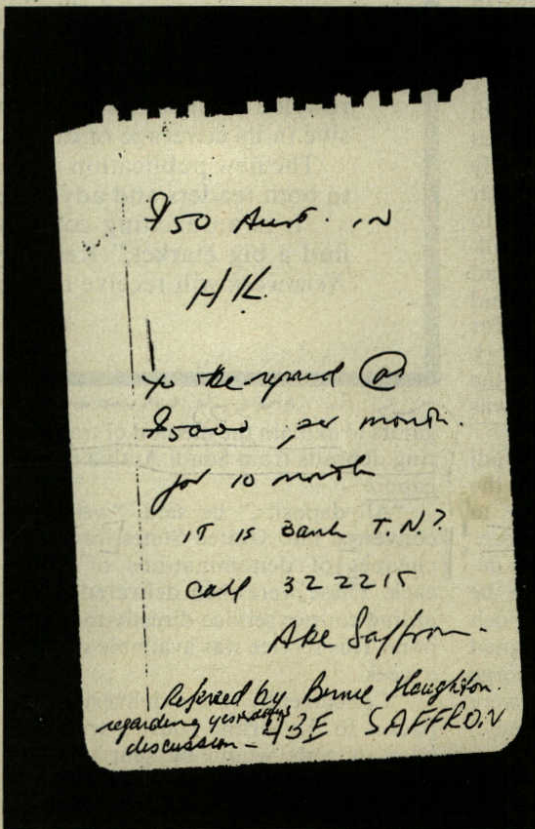
Woods: Mr Evans has stated that Michael Hand told him that you were involved in the distribution of drugs through your retail stations. What do you say about that?

Houghton: I have never been involved in the taking, selling or distributing or anything else in relation to drugs. I am certain that Michael Hand would not have said that.

Woods: Evans has alleged that you were the CIA's top man in Australia. What do you say about this?

Houghton: The statement is totally false. I am not a CIA employee, nor have I ever been.

Woods: Evans alleges that Michael Hand had succeeded in closing a deal for the Nugan Hand Bank to become the conduit for the distribu-



A note from the Nugan Hand files. On October 30, 1980, Stephen Hill, the former money market manager for Nugan Hand, produced to the Task Force company records among which was this undated note hand-written by Michael Hand. Hill, Houghton and Abraham Saffron, a Sydney businessman, were shown the document and denied knowledge of it

tion of CIA money around the world. What do you say about that?

Houghton: In my experience with the Nugan Hand Bank I have never heard that, nor have I ever had or seen any evidence of it.

Woods: Evans alleges that an account was established with the Irving Trust, New York branch, as a link between the CIA and Nugan Hand.

Houghton: There was an account with the Irving Trust Company which was used for the telex transfer of funds around the world. I have never heard nor seen any evidence that the Irving Trust Fund Bank has been used for any clandestine purpose nor for any use by the CIA whatsoever.

Woods: Do you know a man named John Needham?

Houghton: Yes . . . I met him once or twice on casual social occasions.

Woods: Evans has alleged that John Needham was a third partner with Michael Hand and Frank Nugan, having a silent controlling interest in the Nugan Hand Bank even up to the time of the death of Frank Nugan.

Houghton: I have never seen or heard anything to support that . . .

Woods questioned Houghton on other Evans allegations, including one that Nugan Hand had a facility "per medium of a customs employee in Sydney whereby currency and drugs could be smuggled into the country." Evans had alleged that this Customs official had a contact in Hong Kong "whereby a similar situation existed there."

Houghton said he had never heard of such activity. He assumed all of Evans, "baseless allegations" were "predicated upon some hope of personal gain for himself."

Houghton was asked to comment on why the Nugan Hand organisation employed former senior military people.

"Mike Hand was looking for senior type executives to manage the various banks," he said "One source of that sort of personnel obviously was senior retired military personnel. Mike Hand became aware that Admiral Yates, who was then retired and employed, was looking for a change in position. The two met and apparently hit it off and Admiral Yates was thereupon hired."

"Thereafter, Admiral Yates was instrumental in the hiring of other senior retired military officers . . ."

Houghton said he left Australia to take care of "commercial commitments." He said: "Despite all the innuendo in the media, I left the country legally and openly."

Houghton said Hand had telephoned him in the US in March 1981.

"He was lonesome, full of guilt and asking for forgiveness for having embroiled me in his problems." □



Michael Hand: escape aided by a mysterious "Charlie"

~ and how Hand escaped

ROBERT WALLACE GEHRING was originally questioned by Task Force investigators and NSW Corporate Affairs Commission officers on June 3, 1980. Eleven months later he changed his story with the concurrence of both the then federal attorney-general, Senator Durack, and the then NSW attorney-general, Frank Walker. Gehring, 37, American-born, involved in the butcher's trade, was granted immunity from prosecution on the understanding that — on the second occasion — he would tell investigators the whole truth about the disposal of Nugan Hand Bank files and the disguised escape from Australia of Michael Hand.

So, on May 29, 1981 he faced the beginning of a three-day interrogation by Kevin Woods and Bob Gray — the same investigators who flew to Acapulco to question Bernie Houghton. (Gehring also worked on and off as the manager of Houghton's Bourbon and Beefsteak bar until last year.)

Gehring said Michael Hand was a friend of his and that Hand had asked him to use his butcher's truck to help him remove Nugan Hand Bank records. Late in February 1980 Gehring and one of his employees, Barry Target, went to Nugan Hand's Sydney headquarters at 55 Macquarie Street. On the eighth floor Gehring met Houghton and George Shaw, a director of the bank, who told him to go to the AMP building in Bridge Street and wait for them there.

Later, they all went upstairs to an office in room 1709 at the AMP centre. "That's where the records were," Gehring said.

"It was a small office," he said, "about 45 feet (15 metres) long and 20 feet (6.5 metres) wide with windows at

one end opposite the door. There was a desk over underneath the windows and there were four or five filing cabinets about four files high. One of the filing cabinets had a combination lock on it.

"They (the records) were all in the filing cabinets. There were two or three empty cardboard boxes there . . . George Shaw removed all the records from the filing cabinets. He filled the boxes with the records and we took the boxes down to the truck as he filled them . . . There were files in manila folders; there were cash books, journals and ledger type books . . ."

Gehring said they removed about 15 boxes of records, then he and Target drove the van to his premises at 31 Union Street in the inner Sydney suburb of Ultimo where he unloaded the records and locked them in a downstairs flat.

About two weeks later, he shifted them again to his cold store at 625 Harris Street, Ultimo.

Gehring said he gave Shaw a duplicate key to the flat at 31 Union Street and while the files were there Shaw came on at least six occasions and let himself in. Gehring recalled seeing Shaw taking away papers.

He told Woods that on one occasion when he was not present, Houghton had come to the flat at 31 Union Street and had sought access through one of his employees. Because there was no key available, he said Houghton asked the employee to kick in the door at the back. He said the door led from the toilet into the flat which gave him access to where the records were stored.

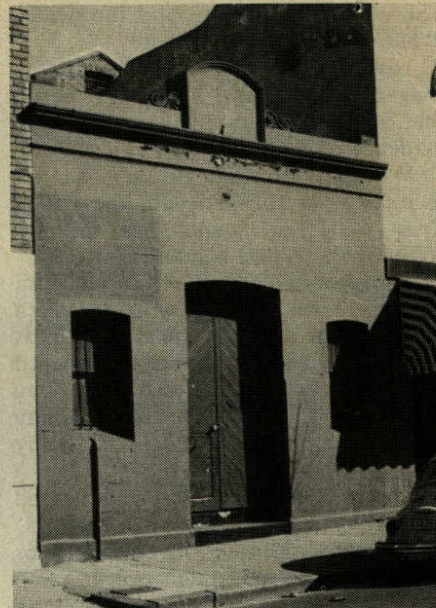
Gehring said he was the only one who knew that the records had been moved to a padlocked room upstairs at



31 Union Street: first hiding place



Gehring business: 35 Union Street



Ultimo cold store: the second one

the cold store. "Mike Hand rang me one day," he said, "and I told him I had moved the records and he stopped me as I was talking and said not to tell him because he didn't want to know."

Later (Gehring could not recall exactly when), Hand telephoned him and asked him to bring all the records to the Pitt Street office of his solicitor, Michael Moloney.

Woods told Gehring that he had interviewed Shaw and that Shaw had told him that he had no knowledge of the Nugan Hand records after they were delivered to the AMP centre. "I have read the Corporate Affairs cross-examination of Michael Hand," Woods said, "and he stated that he assisted in the removal of the records from the AMP centre to 31 Union Street. I have read your transcript of evidence before the Corporate Affairs Commission where you corroborated the story of Michael Hand. It would appear that prior to Hand, Shaw or yourself giving evidence to that commission that an agreement has been reached that false evidence be given to that commission. What do you say about that?"

Gehring denied having come to an agreement with Shaw. However, he said, Hand had come to the Union Street office after he had given evidence.

"He told me that rather than involve George Shaw, Bernie Houghton and Barry Target it would be better if I gave the same evidence as Hand to keep everyone else out of it. He told me that as long as I went along with the story everything would be alright and that I would be in the Corporate Affairs for a short time and that would be the end of it. I agreed to this but I didn't realise how serious the matter would become until you blokes came around inquiring about matters. I started to think then

about whether there was any drug connection with the bank. I certainly don't know of any but I realised that the records would be important if there was and that I should straighten the matter out."

Gehring said he recalled one occasion in May when Hand (who had been living anonymously at the 31 Union Street flat because of threats) asked Gehring to drive him over to Shaw's home in suburban Coogee.

"Mike Hand spoke to George Shaw and tried to calm him down," he said, "because he was pretty nervous and upset and was complaining about being harassed by his clients."

"I remember Hand saying words to the effect: 'The Corporate Affairs will charge me with everything. You won't be charged with anything. I'm going to take the blame for the lot.'"

"Then, Mike Hand and George Shaw went downstairs to a room. They were there for about 10 minutes. I don't know what they were talking about. They came back upstairs and we left immediately. George Shaw was very upset and he came out to our car; he was crying and hanging onto Michael."

"I gained the impression Shaw was seeking Hand's advice on what to do. I have never seen anyone so emotionally upset."

"I remember Hand saying words to the effect: 'You're a mess. You should see a doctor.'"

Gehring was asked to explain, in sequence, the events which led to the disappearance of Hand.

"Hand wanted to leave the country," he said. "He told me he was attempting to get an Australian passport in another name and he had a couple of chances but everything failed. This happened over a two-week period before I became

involved in it. When he couldn't get his own passport, he asked me if I knew of someone who would never travel overseas. He wanted to approach some person and offer them money for them to have a passport issued in their name with his picture on it. I told him I didn't know of anyone who would do that. The situation was becoming impossible and I felt he had to get out of the country because of the threats he was getting and I decided to help him by getting a passport in the name of one of my employees who was about his age and had the same colored hair. I was speaking to one of my employees who had obtained an Australian passport legitimately . . .

"The employee told me it was just a matter of filling out the forms and producing a signed photograph and a copy of the birth certificate and just give it to a travel agent. I figured out in my own mind how to do it illegally and I gave the forms to Michael Hand who filled them out and later I gave everything to a travel agent."

The passport was issued in the name of Alan Glen Winter. An unsuspecting travel agent in Dixon Street (Sydney's Chinatown) obtained the passport after Gehring, who paid him Hand's cash for a round-the-world ticket, concocted a story about obtaining both the tickets and the passport for a friend.

Gehring said an American he knew only as "Charlie" came out from the United States to help Hand with his getaway. It was Charlie — according to Gehring — who helped Hand disguise himself with a false beard and moustache and glasses.

"I saw him (Charlie) above five times," Gehring said. "They acted very secretly. I was never told his right name. I was never told where he was

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staying and he appeared as if he didn't wish to be seen in company with Michael Hand." Nevertheless, Charlie was with Hand when he left Australia for Vancouver via Fiji and Honolulu.

Gehring described Charlie as being "white, six foot one, about a hundred and eighty pounds, dark hair, medium build, probably about 35 years old."

Hand had told Gehring that he was flying to Canada because from there he could enter the United States without a visa by simply driving over the border.

Although Hand had gone, Gehring was still helping him. He said he and Hand had spoken about what he should do to "buy" Hand enough time for him to get into the United States.

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"He left on the long weekend in June," he said, "and every day for about a week I would put fresh food in the fridge, wet down his socks and tooth brush, flush the toilet, run the shower for a while and stomp around and bang some doors for the benefit of the neighbor. I would bring the daily papers in and make the noise in there in the morning and the afternoon. Ultimately Michael Moloney (Hand's solicitor) rang me and said he wanted to contact Hand in relation to some court case. Hand had told me to tell no one about his disappearance and I told Moloney I hadn't seen him for a couple of days. I told him I would leave a note on his mirror in the bathroom. I did this. Moloney kept ringing each day and I put two or three notes on the mirror. Eventually I told Michael Moloney I'd been leaving the notes, that Hand hadn't been back and I hadn't seen him." I tried to ring Moloney on one occasion but I was told he wasn't there and I was put onto Quentin George (a solicitor who worked for Frank Nugan). I told him I'd been leaving notes for Michael Hand for over a week and I suggested that he report the matter to the police because something may have happened to Michael Hand. At that stage the press were ringing that office and Quentin George had apparently told them the story. The next thing, the Willesee program turned up. I rang Quentin George and asked him what to do and he said let them in. The rest is history."

In February 1981, Gehring took a trip home to see his family in Dayton, Ohio. On his way back to Sydney, Hand telephoned him in the Pan Am Clipper Club departure lounge at San Francisco airport. "He was looking for news about himself and the investigation over here," he said. "He asked me about his wife, Helen, and also if I had gotten into trouble over the false passport. He asked me if I had seen Bernie Houghton and I told him I had. I asked him how he was doing and he said he was doing a bit better and getting it together." □

Unsafe as a bank could possibly be

THE NUGAN Hand Bank must have been the most sloppily run institution calling itself a bank ever to have operated in this country.

However, the repeated allegations that it was a CIA front and engaged in the drug trade remain unsubstantiated and may well be untrue.

Bernie Houghton's statement, now made public for the first time, provides evidence on both counts.

To begin with, take Houghton's recruitment by Michael Hand. Houghton had been a construction businessman in Vietnam and had a business background in war surplus equipment, restaurants and clubs. He later worked as a real estate salesman and had opened the Bourbon and Beefsteak Bar.

He appears to have been an astute businessman, but without banking experience. When Hand asked him to go to Germany to "review a bank investment," Houghton pointed out that he neither spoke German nor knew the banking business. To be fair, it should be pointed out that neither Nugan nor Hand had any significant banking experience either.

Because Houghton would work only for Hand, the Saudi office was made part of Nugan Hand, Cayman Islands, part of the motley empire which was wholly owned by Hand. The books were kept neither in Saudi Arabia nor Cayman Islands but in Singapore.

When Nugan Hand went into receivership in Hong Kong nobody bothered to tell the Saudi branch, although the employees were liable to be thrown into debtor's prison under Saudi law until their debts were repaid (in the case of Nugan Hand, this might well have been a life sentence). The staff had to flee the country.

Houghton said that each bank in each country was a separate and independent operation. For this reason he was unable to give a list of all the countries in which it operated. In other words, Nugan and Hand set up a skein of banks around the world but communication between them was so negligible that the man running the Saudi operation did not even know that some of them existed.

Houghton was obviously appalled at the lack of security in the Sydney office. Many of the executives, and even some outsiders, had keys to the office. Houghton said that when Hand came to the office after Frank Nugan's death "he was not able to determine what files had been removed nor how much money nor who did it."

"From my observation of the offices, even prior to the death of Frank Nugan, they were totally without security, even though large sums of negotiable documents were apparently always in the office. It appalled me that people could freely come and go throughout that office at all times, and they did. The offices were just wide open to anyone." Houghton absolutely denied that the bank was operating on behalf of the CIA or as a drug-runner.

A sceptic would say that these are the sort of charges an executive of the

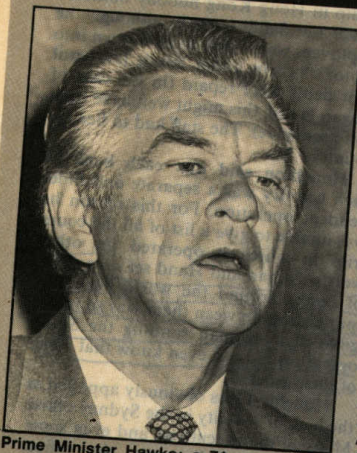
Inquiries still going on

IN MAY 1980, Mr Justice Woodward recommended an investigation into the affairs of major drug trafficker Murray Riley and his associates: Harry Wainwright, an American lawyer and associate of organised crime figures in the United States and Australia and the Nugan Hand group of companies. It was not until September that year that the Commonwealth-State Joint Task Force on Drug Trafficking was asked to start its investigations. In July 1982, as a result of allegations made in federal parliament by the Labor opposition, the Fraser Government referred the matter to a royal commission. Mr Justice Stewart began his inquiry on April 1 last year.

The 18-man Drugs Task Force led by NSW detective sergeants Jim Seedsman and Clive Small has so far produced four reports, the first of which was not released by the government.

The Corporate Affairs Commission assigned its own team to the Nugan Hand investigation on January 27, 1980. The CAC produced its seventh and final report on May 23 last year. Only the fifth, sixth and seventh CAC reports were tabled. Five CAC investigators are still working with the Stewart royal commission while others are also assisting the Nugan Hand liquidator, John O'Brien.

— Bruce Stannard



Prime Minister Hawke: a 71 percent approval rating

PUBLIC OPINION

ALP victory in the Senate is unlikely

IF A Federal election for the House of Representatives had been held in early May, the Hawke Government would have been easily returned. However, the Senate would have been controlled by the Australian Democrats and independents, the Morgan Gallup Poll finds.

For the House of Representatives, support for the ALP was 54 percent, while 39 percent supported the L-NP.

For the Senate, support for the ALP was 8 percent lower at 46 percent, while 38 percent support the L-NP, 8 percent the Australian Democrats and 8 percent other parties and Independents.

	Aust			
	ALP	L-NP	Dem	Others
House of Reps Election				
1980 Fraser	45.1	46.3	6.6	2.0
1983 Hawke - March 5	49.5	43.6	5.0	1.9
Morgan Gallup Poll				
Feb 4/11	57	37	4	2
Feb 18/25	54	40	4	2
March 3/10	55	39	5	1
March 17/24	57	37	4	2
March 31/Apr 7	54	39	5	2
April 14/21	55	39	3	3
April 28/May 5	55	39	4	2
May 12/19	54	39	5	2

The last line of figures comes from asking 2070 electors throughout Australia (in the weekends of May 12, 19) which party would receive their first preference "if a Federal election were

held today for the House of Representatives." Electors were also asked which party would receive their first preference "if a Federal election were held today for the Senate."

Of those surveyed, only 4 percent didn't state their preference for the House of Representatives and 6 percent for the Senate.

Electors were also asked whether they approved of the way Prime Minister Hawke was handling his job.

APPROVAL OF PRIME MINISTER

	Approve	Disapprove	Undecided
Feb 4/11	73	15	12
Feb 18/25	70	18	12
March 3/10	74	16	10
March 17/24	74	16	10
March 31/Apr 7	75	15	10
April 14/21	75	16	9
April 28/May 5	72	18	10
May 12/19	71	17	12

Of ALP voters, 90 percent (down 2 percent) approved the way Hawke was handling his job. Only 3 percent (down 2 percent) disapproved and 7 percent were undecided. On the other hand, of L-NP voters, 48 percent (up 3 percent) approved, 35 percent (down 4 percent) disapproved and 17 percent were undecided.

APPROVAL OF OPPOSITION LEADER

	Approve	Disapprove	Undecided
Feb 4/11	39	38	23
Feb 18/25	36	38	26
March 3/10	36	40	24
March 17/24	34	43	23
March 31/Apr 7	33	45	22
April 14/21	37	43	20
April 25/May 5	35	45	20
May 12/19	36	41	23

Of L-NP voters, 46 percent (up 3 percent) approved the way Peacock was handling his job as Leader of the Opposition, 32 percent (down 5 percent) disapproved and 22 percent were undecided. Of ALP voters, 28 percent (down 2 percent) approved Peacock, 50 percent (down 1 percent) disapproved and 22 percent were undecided.

Electors surveyed were also asked who they felt would make the better Prime Minister - Hawke or Peacock. Preference for Hawke was 74 percent.

Of ALP voters, 93 percent said Hawke would make the better Prime Minister, only 2 percent said Peacock, while 5 percent couldn't say or named someone else. Of L-NP voters, 32 percent (down 1 percent) said Peacock and 51 percent (up 3 percent) said Hawke and 17 percent couldn't say or named someone else.

The Morgan Gallup Poll, the only Australian member of Gallup Poll, is copyright. It must not be reproduced in whole or part without the express permission of The Bulletin.

bank would deny whether true or not. He could have them. However, there are negative evidence with Houghton. One, for example *Sleight of Hand*, by J Englishman who used Bangkok branch in Thailand.

According to Owen, the branch was set up by Neil purpose of attracting drug he was singularly unsuccessful. Owen also claimed that Nugan Hand ever came to ex-CIA man was when Black, former chief of Bangkok, was approached, fully. □

THE PUBLIC SERVICE

The mystery of papers 'lost in the system'

By RICHARD FARMER

THE COMMONWEALTH man has uncovered an amazing of disappearing documents from Department of Science and Technology. The missing documents are related to efforts by a former Australian government analyst, Dr Frank Peters, to have notice taken of what he believed was waste in scientific spending.

The ombudsman has found some documents were destroyed action he described as "deplorable". Some folios were missing from files and the department was unable to offer any explanation.

A key set of files that recently missing related to reports written by Peters to the then Minister for Science, Clyde Cameron, in 1975. They outlined a plan to rationalise a number of government laboratories in similar fashion to proposals recently put forward by a committee headed by Professor Ross (B, May 15).

Last week, Cameron recalled that he had agreed with the Peters proposal but it was clear from the Ross report that no changes were made. Ross told that waste running into tens of millions of dollars and his recommendations are now the subject of a further report by an inter-departmental committee.

The disappearance of complete documents and pages from files has come to light because Peters approached the ombudsman to ask why his submission he prepared for the Ross committee was never received. Peters

According to Owen, the branch was set up by Neil [redacted] purpose of attracting drug [redacted] was singularly unsuccessful. Owen also claimed that [redacted] Hagan Hand ever came to [redacted] CIA man was when B [redacted] ack, former chief of [redacted] ngkok, was approached [redacted] ly. □

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papers 'lost
the system'**

CHARD FARMER

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(p. 15).

Cameron recalled that with the Peters proposal from the Ross report were made. Ross told into tens of millions of recommendations of a further report by a committee. The appearance of complete pages from files had because Peters asked the ambassador to ask why prepared for the Ross never received. Pete

ULLETIN, JUNE 5, 198

bank would deny whether they were true or not. He could hardly confess to them. However, there are other pieces of negative evidence which support Houghton. One, for example, is the book *Sleight of Hand*, by John Owen, an Englishman who used to run the Bangkok branch in Thailand.

According to Owen, the Chiang Mai branch was set up by Neil Evans for the purpose of attracting drug money, but he was singularly unsuccessful at doing so. Owen also claimed that the closest Nugan Hand ever came to recruiting an ex-CIA man was when Brigadier Ed Black, former chief of station in Bangkok, was approached, unsuccessfully. □

— Trevor Sykes

The Sydney Morning
Herald
P. 3 20 April '84

89/631

15

Houghton of Nugan Hand makes a surprise return

By NEIL MERCER,
Police Reporter

Mr Bernie Houghton, a key figure in the defunct Nugan Hand merchant banking group, is back in Sydney after an absence of about 13 months.

Police sources said that Mr Houghton, 63, returned last Saturday and had already been spoken to by investigators from the Stewart Royal Commission which is inquiring into the collapse of Nugan Hand in early 1980.

Mr Houghton, whose con-

nections with US military and intelligence personnel made him perhaps the most mysterious and controversial figure in the Nugan Hand group, is expected to give evidence before Justice Stewart in three to four weeks.

The sources said it appeared that Mr Houghton was back in Sydney "to stay" and that he would have expected to be questioned by the commission.

Mr Maurice Bernard Houghton, a Texan, left Australia on March 3 last year, a few weeks before Federal

Police tried to serve a summons on him to appear at the Stewart Royal Commission.

He stated on his departure card that he would be out of the country for 10 days.

Justice Stewart said in April last year that Mr Houghton had left the country before the commission's terms of reference had been issued and therefore he could not have been served with a summons on, or prior to, March 3.

A former owner of restaurants such as the Bourbon and Beefsteak and the Texas Tav-

ern in Kings Cross, Mr Houghton is again living in his penthouse apartment in Elizabeth Bay Road and has been seen drinking at the Bourbon and Beefsteak during the week.

His return has surprised NSW police who thought he would remain overseas until the end of the Stewart Royal Commission.

But the sources said that Mr Houghton had probably realised that sooner or later he would have to answer questions either from Justice Stewart or another inquiry about

his role in Nugan Hand.

The Nugan Hand bank collapsed shortly after the body of Frank Nugan was found in his Mercedes-Benz near Lithgow on January 27, 1980. He had committed suicide.

Subsequent investigations by the Federal-NSW police task force and the Corporate Affairs Commission found that Nugan Hand had been involved in drug trafficking, arms deals and money laundering and that it also had a connection with the Mr Asia drug syndicate.

Mr. F. Houghton, 63, returned last Saturday and had already been spoken to by investigators from the Stewart Royal Commission which is inquiring into the collapse of Nugan Hand in early 1980.

P/14

The Sydney Morning Herald
P. 14 29 Mar '84

Alleged Mr Asia drugs chief awaits US extradition hearing

SAN FRANCISCO, Wednesday: A man arrested for drunk driving and wanted in Australia as an alleged leader of the Mr Asia narcotics syndicate appeared briefly in court today before being returned to custody.

Police named him as James William Shepherd, 42, and said he was alleged to have entered the United States on a false Australian passport.

They said he was arrested last Friday in Marin County, north of San Francisco, and subsequent checks

indicated he was a fugitive.

A team of Australian officials was on its way to assist in extradition procedures.

In his royal commission report on the Mr Asia syndicate, Justice Stewart said there was strong evidence that Shepherd had acted as "paymaster and heroin distributor".

A second alleged member of the syndicate, Choo Cheng Kui, also known as Chinese Jack, was arrested in Singapore last month and is fighting extradition.

29/3

Mr. Hamilton

Mr. Jensen

Mr. Fox 29/3

Mr. Mulvey

Mr. Buzeth

ATF Stewart R.C.

85/24 ptt.

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*Mr. [illegible] [illegible]
[illegible] [illegible]*

8/14/48

R.C. [illegible]

*Mr. [illegible]
Mr. [illegible]
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Mr. [illegible]
Mr. [illegible]*

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13

The Canberra Times
P. 8 23 Mar '84

300 passports investigated

MELBOURNE: More than 300 suspected passport frauds had been referred to the Federal Police in the past 12 months, the Minister for Foreign Affairs, Mr Hayden, said yesterday.

Of these, about 80 legal proceedings had followed, many resulting in convictions.

Some of the convictions had included passport fraud for the purposes of child abduction, drug trafficking and illegal immigration.

The detections follow new passport regulations introduced over the past 12 months following recommendations from the Stewart and Williams Royal commissions.

The tighter controls include photocopies of documents no longer being acceptable, new security checks on applicants and those certifying applicants' identities, and the need to submit a full birth certificate rather than an extract.

Another new measure will come into force on July 1 making it necessary for all passport applicants to appear in person at any of 1,422 official post offices or seven passport offices throughout Australia.

23/3

Mr. Hanton

Mr. Felsen

Mr. Fick - for your information
Mr. Mallory

83/241
12

The House of Representatives Bailey Hansard
P 19 28 Feb '84

**ROYAL COMMISSION OF INQUIRY
INTO DRUG TRAFFICKING**

Mr LIONEL BOWEN (Kingsford-Smith—
Minister for Trade)—For the information of
honourable members I present the Government's
response into the report of the Royal Commission
of Inquiry into Drug Trafficking.

Motion (by **Mr Young**) proposed:

That the House take note of the paper.

Debate (on motion by **Mr Steele Hall**)
adjourned.

Mr Mallory

ATT

John Fisk



ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Interim Report

Senator GARETH EVANS (Victoria—Attorney-General)—For the information of honourable senators I table the Interim Report of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group on Commonwealth Terms of Reference (E), (F) and (G).

Ordered that the report be printed.

Motion (by **Senator Gareth Evans**) agreed to:

That the Senate take note of the report and statement.

Senator GARETH EVANS—by leave—On 28 March 1983 the terms of reference of the Royal Commission of Inquiry into Drug Trafficking were extended to allow the Royal Commissioner, Mr Justice Stewart, to inquire into the activities of the Nugan Hand group of companies and related matters. The Commissioner has now reported to the Government on three of the terms of reference contained in the letters patent issued by the Governor-General on that date and this is the report I am now tabling. Honourable senators will recall that serious allegations had been raised concerning members of this Parliament and relating to alleged interference in Commonwealth investigations and wrongful use of an ex-officio indictment. The Royal Commission has inquired into these allegations and found them to be without basis.

The first term of reference on which the Commissioner has reported is:

(e) Whether any person, organisation or body associated with the Nugan Hand group directly or indirectly made or offered any payment or inducement for, or in connection with, or endeavoured by means of a threat to procure, the disclosure by any Commonwealth officer or any person who was formerly a Commonwealth officer of information relating to an investigation by an Australian law enforcement body into any activity referred to in paragraph (a) or (b) relating to possible illegal activities by the Nugan Hand group;

The Commissioner's response to this question is: 'No'.

The second term of reference on which the Commissioner has reported is:

(f) Whether any person, organisation or body associated with the Nugan Hand group procured or received, directly or indirectly, from any Commonwealth officer or any person who was formerly a Commonwealth officer information relating to an investigation by an Australian law enforcement body into any activity referred to in paragraph (a) or (b);

The Commissioner's response to this question is: 'Yes, Mr F. J. Nugan received confidential information relating to the investigation indirectly from a Commonwealth officer, namely, Philip Ambrose Bailey as a result of an approach by Mr Garry Allen in Hong Kong in about November 1977 to an employee of Mr F. J. Nugan to whom the confidential information was passed and who in turn conveyed that information to Mr F. J. Nugan.' Mr Bailey was an investigator in the Sydney office of the Federal Narcotics Bureau from 1973 until the Bureau was abolished in 1979. I am advised that he ceases to be an employee of the Commonwealth early in 1981.

The third term of reference on which the Commissioner has reported is:

(g) Whether any person, organisation or body improperly interfered with, inhibited or endeavoured to interfere with or inhibit any investigation by an Australian law enforcement body into any activity referred to in paragraph (a) or (b).

The Commissioner's response to this question is: 'No'. The report does not contain recommendations for further action on any of these matters. The Commission found that the substance of the allegations against members of the House of Representatives all came from the one person concerning whose credibility 'the Commission entertains serious doubts'. It is the Commission's opinion that there is no credible evidence to support these allegations and the Commission is of the view that the allegations are 'quite unjustified and false'. As to allegations of intimidation by the then Attorney-General, the Commission found that '... there is no substance in (the) assertion that the ... Attorney-General ... acted maliciously in filing an ex-officio indictment in respect of Mr Volkman in 1982'.

The matters that were referred to the Royal Commission were of public concern. Following the Commission's investigation of those matters and its report, the concern can now be put to rest. In accordance with the Commissioner's recommendation, one page of the report—containing information on the identity of two confidential witnesses—has been deleted from the report as tabled. In addition, following consultation with the Commissioner and with his agreement, appendix K and certain other matters—mostly the names of individuals and companies—have been deleted from the appendices in the report as tabled. None of the matters deleted relate, in themselves, to the matters under consideration in the report. Finally I inform honourable senators that a copy of the Commissioner's report has been sent to the Premier of New South Wales for his information. The Government presently has under

consideration, in consultation with the Government of New South Wales, the question of an extension of time beyond 31 December 1983 for Mr Justice Stewart to complete his inquiries into the remaining terms of reference.

Debate (on motion by **Senator Chaney**) adjourned.

Mrs Kirby

Mr Kirk

I think, therefore, that should Mr Walsh's evidence be accepted it would be open to a jury to find that Mr Young had committed a breach of section 79 (3).

So there we have an entirely different scenario for the Attorney-General and the Government to look at. The exculpatory remarks made by the Attorney-General as to the reasons why Mr Young should not be prosecuted can now no longer apply. Whether he should be is a matter for the Government and must under the law, be a matter for the Attorney-General.

I remind the House of the four considerations that exercised the Attorney-General's mind in that long and rambling opinion that he gave on the subject. The first was obscurity of the law. As to that, it is perfectly plain that the Solicitor-General felt no difficulties and any obscurities have been expounded by Mr Justice Hope, so we can put those to one side. The second was seriousness of the offence and the degree of culpability. We have heard the views of Mr Justice Hope which make it perfectly plain that there is no difference between an attempted murder and a murder when national security matters are being dealt with. Thirdly, the Attorney-General was moved by the need for deterrence. He said this:

The sanction of resignation has already, of course, applied in the present case.

We know that that sanction is no longer to apply. We know that Mr Young will be welcomed back by the Caucus in February and that he will be promoted by the Prime Minister into the Ministry. Who doubts that he will go back into the Ministry? The fourth matter that exercised the Attorney-General's mind was the automatic disqualification from Parliament that might follow from a conviction. That is, of course, utterly irrelevant. If there is a breach of the Crimes Act then members of parliament are in no special position to claim exemption from prosecution because their position may be affected. God knows, if anyone is charged with an offence under the Crimes Act and is convicted that person will be affected in a number of ways and no special considerations need to be given to members of parliament for that reason.

Lastly, let me go back to Mr Young's answer. He gave it today in this House. He suggested that he had been exculpated; that is, it was an end to the matter and he could go forward, as it were, a good little boy who slipped once and had a rap over the knuckles. Nothing could be further from the truth. Nothing could be further from the findings that Mr Justice Hope made. The Attorney-General and this Government are not in a position to say that the book is closed. The book has been opened by Mr Justice Hope. The evidence is

now there. The findings are there. It is for the Attorney-General and this Government to determine what fate awaits Mr Young under the Crimes Act.

Question resolved in the affirmative.

Sitting suspended from 6.28 to 8 p.m.

COWARRA DAM

Mr UREN—Mr Speaker, I seek the indulgence of the House to add to a reply to a question asked during Question Time.

Mr SPEAKER—I will grant the Minister the indulgence.

Mr UREN—During Question Time the honourable member for Dundas (Mr Ruddock) asked me about the risk of pollution of the Murrumbidgee River as a result of an unstable tailings dam at the Cowarra Mine on the Bredbo River in New South Wales. I indicate to the honourable member that the Department of Territories and Local Government has been concerned about the risk of pollution of the Murrumbidgee River as a result of the situation at the Cowarra Dam. Representatives of my Department met with New South Wales authorities on 8 June to discuss ways of solving the problem. On 29 June the Department wrote to the New South Wales State Pollution Control Commission expressing concern about the extent of the risk and indicating the need for urgent remedial works. On 7 September I wrote to the Chairman of the Joint Committee on the Australian Capital Territory informing the Committee that the New South Wales authorities had advised my Department that funds were being sought from the New South Wales Government for interim remedial works and that, subject to their availability, the work will be carried out in late 1983. This afternoon I sought details on the current situation. It is my understanding that funds for the remedial works have been provided in the New South Wales Budget but that these works have not yet been carried out. I am concerned about the potential threat to water quality in the Murrumbidgee River and will bring this matter to the attention of the Minister for Mineral Resources in New South Wales.

REPORT OF ROYAL COMMISSION OF INQUIRY INTO ACTIVITIES OF THE NUGAN HAND GROUP

Report and Ministerial Statement

Mr BEAZLEY (Swan—Special Minister of State)—For the information of honourable members I present Interim Report No. 1 of the

Royal Commission of Inquiry into the Activities of the Nugan Hand Group.

Motion (by Mr Dawkins)—by leave—agreed to:

(1) That this House, in accordance with the provisions of the Parliamentary Papers Act 1908, authorises the publication of Interim Report No. 1 of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group, and

(2) That the report be printed.

Mr BEAZLEY (Swan—Special Minister of State)—by leave—On 28 March 1983 the terms of reference of the Royal Commission of Inquiry into Drug Trafficking were extended to allow the Royal Commissioner, Mr Justice Stewart, to inquire into the activities of the Nugan Hand Group of companies and related matters. The Commissioner has now reported to the Government on three of the terms of reference contained in the Letters Patent issued by the Governor-General on that date, and this is the report I am now tabling. Honourable members will recall that serious allegations had been raised concerning members of this Parliament and relating to alleged interference in Commonwealth investigations and wrongful use of an ex-officio indictment. The Royal Commission has inquired into these allegations and found them to be without basis. The first term of reference on which the Commissioner has reported is:

(e) Whether any person, organisation or body associated with the Nugan Hand Group directly or indirectly made or offered any payment or inducement for, or in connection with, or endeavoured by means of a threat to procure, the disclosure by any Commonwealth officer or any person who was formerly a Commonwealth officer of information relating to an investigation by an Australian law enforcement body into any activity referred to in paragraph (a) or (b);

That is, relating to possible illegal activities by the Nugan Hand Group. The Commissioner's response to this question is no. The Second term of reference on which the Commissioner has reported is:

(f) Whether any person, organisation or body associated with the Nugan Hand Group procured or received, directly or indirectly, from any Commonwealth officer or any person who was formerly a Commonwealth officer information relating to an investigation by an Australian law enforcement body into any activity referred to in paragraph (a) or (b);

The Commissioner's response to this question is:

'Yes, Mr F. J. Nugan received confidential information relating to the investigation indirectly from a Commonwealth officer, namely Philip Ambrose Bailey as a result of an approach by Mr Garry Allen in Hong Kong in about November 1977 to an employee of Mr F. J. Nugan to whom the confidential information was passed and who in turn conveyed that information to Mr F. J. Nugan.'

Mr Bailey was an investigator in the Sydney office of the Federal Narcotics Bureau from 1973 until the Bureau was abolished in 1979. I am advised that he ceased to be an employee of the Commonwealth early in 1981. The third term of reference on which the Commissioner has reported is:

(g) whether any person, organisation or body improperly interfered with, inhibited or endeavoured to interfere with or inhibit any investigation by an Australian law enforcement body into any activity referred to in paragraph (a) or (b).

The Commissioner's response to this question is no. The report does not contain recommendations for further action on any of these matters.

The Commission found that the substance of the allegations against members of this House all came from the one person concerning whose credibility 'the Commission entertains serious doubts'. It is the Commission's opinion that there is no credible evidence to support these allegations and the Commission is of the view that the allegations are 'quite unjustified and false'. As to allegations of intimidation by the then Attorney-General, the Commission found that '... there is no substance in (the) assertion that the ... Attorney-General ... acted maliciously in filing an ex-officio indictment in respect of Mr Volkman in 1982'.

The matters that were referred to the Royal Commission were of public concern. Following the Commission's investigation of those matters and its report, that concern can now be put to rest. In accordance with the Commissioner's recommendation, one page of the report containing information on the identity of two confidential witnesses has been deleted from the report as tabled. In addition, following consultation with the Commissioner and with his agreement, Appendix K and certain other matters—mostly the names of individuals and companies—have been deleted from the appendices in the report as tabled. None of the matters deleted relate, in themselves, to the matters under consideration in the report.

Finally I inform honourable members that a copy of the Commissioner's report has been sent to the Premier of New South Wales for his information. The Government presently has under consideration, in consultation with the Government of New South Wales, the question of an extension of time beyond 31 December 1983 for Mr Justice Stewart to complete his inquiries into the remaining terms of reference.

Mr FIFE (Farrer)—by leave—I do not propose to detain the House for very long. I am one of

the members of this House. The allegations have been made by me, the findings of the inquiry into the Activities of the Nugan Hand Group are as I expecting me are false and by me in this House. The Party of Australia has strongly denied the allegations. The Royal Commissioner, Mr Justice Stewart, has found that both of us came from whose credibility 'the Commission entertains serious doubts'. In his evidence 5.36, His Honour

In the result, the Commission's findings are credible evidence to support the allegations made at 3.2 (f) and the allegations are quite unjustified and false. The Commission's opinion that there is no credible evidence to support these allegations from the allegations

Mr Speaker, I am pleased that the Commission has had an opportunity to appear before the House. It is a welcome opportunity to appear before the House, however, that two members of the House, now Ministers, one (Mr Lionel Bowen) and the other (Mr Foreign Affairs (Mr ...)) have used the forms of this House to found and scurrilous

Mr NEWMAN (Newcastle)—by leave—I am pleased to see the second debate we have had on the royal commissions. I am pleased to see the Government going further into this inquiry. The inquiry into the Activities of the Nugan Hand Group, is that the Government's one common thread is that we had the Prime Minister defending the ex-Sydney Honourable member (Mr Young), referring to that he would expect the Intelligence Organisation to be very quickly, three or four months, by throwing the shadow and promoting the Minister of State but not double standard

Mr Hand—Mr ... order. My point is that the topic before the

the members of this House against whom these allegations have been made. So far as they relate to me, the findings of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group are as I expected. The allegations concerning me are false and have previously been denied by me in this House. The Leader of the National Party of Australia (Mr Anthony) has also strongly denied the allegations made against him. The Royal Commissioner, His Honour Mr Justice Stewart, has found that the allegations concerning both of us came from the one person concerning whose credibility 'the Commission entertains serious doubts'. In his findings, on page 116, reference 5.36, His Honour said:

In the result, the Commission is satisfied that there is no credible evidence to support these allegations as summarised at 3.2 (f) and is of the opinion that such allegations are quite unjustified and false. This finding, of course, exonerates each of the persons named in these allegations from the alleged wrongdoing.

Mr Speaker, I am pleased that the Royal Commission has had an opportunity to examine these unfounded allegations and that I had an opportunity to appear before His Honour. I of course welcome the findings. I am disappointed, however, that two members of this House who are now Ministers, one the Deputy Prime Minister (Mr Lionel Bowen) and the other the Minister for Foreign Affairs (Mr Hayden), were prepared to use the forms of this House to highlight such unfounded and scurrilous allegations.

Mr NEWMAN (Bass)—by leave—This is the second debate we have had today on reports of royal commissions. I think that what could be said about the Government's response, and from looking further into this report of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group, is that the then Opposition's and the now Government's actions in the matter reveal one common thread and that is double standards. We had the Prime Minister (Mr Hawke) today, in defending the ex-Special Minister of State, the honourable member for Port Adelaide (Mr Young), referring to the very highest standards that he would expect from the Australian Security Intelligence Organisation. He followed that up very quickly, three or four pages later in his statement, by throwing high standards out of the window and promoting the discredited ex-Special Minister of State back into his Ministry. If that is not double standard I do not know what is.

Mr Hand—Mr Speaker, I raise a point of order. My point is that this has nothing to do with the topic before the House.

Mr SPEAKER—I have been aware of the point raised by the honourable member for Melbourne. I was about to invite the honourable member for Bass to refer to the paper before the House.

Mr NEWMAN—I will come to the point of why I referred back to the statement made earlier in the House. The second point about double standards was again in the Prime Minister's defence of the report of the Hope Royal Commission on Australia's Security and Intelligence Agencies. He demanded an apology from the Leader of the Opposition (Mr Peacock).

Mr Hand—Mr Speaker, I raise a point of order.

Mr SPEAKER—Order! The honourable member for Melbourne is raising a point of order on the same matter that he raised before. I accept that the honourable member for Bass is briefly coming to the point and drawing a parallel with this report. I hope that I am correct in my assessment of the honourable member for Bass.

Mr NEWMAN—I come to that point right now. As I was saying, the Prime Minister in his statement demanded an apology from the Leader of the Opposition for daring to query the Government's actions in this Combe affair. Now—this is the point—if one compares what was said in this House legitimately by the Opposition in raising quite considerable and valid criticism of the way in which the Government conducted the Combe affair with the way in which the then Leader of the Opposition conducted himself in the series of debates that began on 11 March 1982 and went over several other debating days, one can see that it is just sheer hypocrisy for the Prime Minister to make statements such as that. It is sheer hypocrisy because he sat in this House behind the then Leader of the Opposition—I have no doubt that he was in the counsel of the then Leader of the Opposition outside this chamber—and supported and promoted the sort of nonsense which the then Leader of the Opposition brought into this House. That is the point I make to the honourable member.

Mr Cunningham—Mr Speaker, I raise a point of order. The speaker is not relating his remarks to the report before the House. He is dealing with—

Mr SPEAKER—Order! The Chair will be the judge of that. The honourable member for Bass is clearly referring to the report just presented by the Minister.

Mr NEWMAN—For the benefit of the honourable member who just raised the point of order, let me relate my remarks quite precisely to

why that report is absolutely valid to what I have just said. The Special Minister of State (Mr Beazley), in a very bland statement appearing in the middle of his remarks, said:

The Commission found that the substance of the allegations against members of this House all came from the one person concerning whose credibility 'the Commission entertains serious doubts'.

In fact, in a very nice way the commissioner called Mr B, who is the source of these original allegations, a liar. That is really what he was saying. The statement continues:

It is the Commission's opinion that there is no credible evidence to support these allegations and the Commission is of the view that the allegations are 'quite unjustified and false'.

That was one quote the Minister brought to us out of Commissioner Stewart's report. The Minister failed to say also what the Commissioner said on page 13, paragraph 2.8, of the report. The report states:

However, it was when the Honourable W. G. Hayden, M.P., then Leader of the Opposition, repeated some of these allegations in the House of Representatives on 11, 16 and 18 March 1982, respectively, that they gained more widespread publicity.

I repeat that the finding of the Commissioner was that the allegations about what Mr B actually promoted—the Commissioner has found it to be quite false; he found that Mr B was a liar—only gained any credibility or widespread publicity when the then Leader of the Opposition started to bring them into the House. What effect his allegations had. Here is the sheath of the reports that appeared in the media—in every one of the daily newspapers, in the Australian Broadcasting Corporation television programs and all the rest of them. What were they reporting? They were reporting the allegations made by the then Leader of the Opposition that two Ministers—the Leader of the National Party (Mr Anthony) and the honourable member for Farrer (Mr Fife)—had stopped the investigation into Nugan Hand, had taken a direct action which prevented the course of justice and which stopped the proper investigation. That is why this Royal Commission had to report—because of infamous conduct by the Leader of the Opposition and now Minister for Foreign Affairs (Mr Hayden) who is now listening to this debate. I hope he responds.

I hope the Minister for Foreign Affairs will recall some of the things that happened in that period from 11 March onwards. From the very first moment when he brought these allegations into this House—on the very same day—a very clear, precise denial was made by the Leader of the National Party in the first case. It was quite

clear then and later in a statement that I made that there was simply no credibility in the sorts of things that the then Leader of the Opposition and now Minister for Foreign Affairs was trying to promote. But the Minister ignored that completely. It was clear why he ignored it. There were probably two reasons we could say why he ignored it. There were probably two reasons we could say why he indulged in this rather nasty, rotten conduct. The reasons were two-fold. The Minister for Foreign Affairs can make faces now, but we hear that sanctimonious Prime Minister, every time somebody dares to question any of his answers or any of the actions of his Government, class us all as either fools or charlatans. But the Minister for Foreign Affairs and other people such as the Minister for Finance (Mr Dawkins) who is sitting behind the Minister for Foreign Affairs, continually, day after day in debates in this House, attacked without any evidence whatsoever the reputations of various Ministers of the Government.

Why did the then Leader of the Opposition, the Minister for Foreign Affairs, do this? He made these allegations on the very flimsiest of evidence. It now transpires that he never checked the allegation that had been made by Mr Volkman or where Mr Volkman may have got it from. In fact, I think we would all recall very clearly that at one stage the then Leader of the Opposition, the Minister for Foreign Affairs, was even saying that there were sworn statements bearing out what he had to say. Of course, that was found to be totally untrue as well. The then Leader of the Opposition brought these allegations, without making, as we now know, any check whatsoever on their credibility, firstly, to try to smear the then Deputy Prime Minister and the honourable member for Farrer. That was the basic reason for doing it. Of course, that there was an imminent by-election in Lowe shortly afterwards was the other reason why he indulged in these fantasies. The point about all this is that if we are to have a practice in this House which allows members to abuse the privileges we are given in this place and to seize upon any tittle-tattle to try to make national importance out of them so that reputations are smeared, it does not do this Parliament any good.

Mr Humphreys—You want to remember that.

Mr NEWMAN—I hope the honourable member does and I hope all honourable members do in the future. As I was saying, it does not do this Parliament any good. It certainly results in a lot of mud sticking on very innocent people who do not deserve it. Finally, it reflects on the people who indulge in it. In this case I think it reflects very badly on the then Leader of the opposition

and now Minister for Foreign Affairs. It was very clear to the Minister exactly what course of action he had several options at that time. They are well known. Firstly, he could have waited for the Australian Federal Police to investigate an Australian Federal Police waiting in my office to investigate the statements the then Minister might have been able to make. The Opposition did not matter to the joint investigation of this matter. He took it to the Stewart then stood. He chose of things he could have done. Again, the reason for his intent on finding out on trying to find the Minister he was intent on doing to cent people and to do that is all I have to say. Truly made. The Prime Minister previously on the House referring to the queries in opposition (Mr Peacock) apology. I hope that the affairs will now appear unfairly smeared in the

Mr HAYDEN (Constitutional Affairs)—by leave—the findings of the Stewart Inquiry into the Nugan Hand Group, at least insofar as the National Party is concerned, only person I ever mentioned matters before Mr Justice in this Parliament. I am aware of the denials of the then Leader of the Nation by the Stewart Royal Commission means simply that it has been upheld. That

My comments were merely to recall the Parliament as discussed the honourable member am a member of parliament which I operate in the missions and not commercial areas in which one of greater or lesser commercial any discomfort. But a parliamentarian the

and now Minister for Foreign Affairs. At that time in answers to questions, in statements and in debates that occurred over this issue it was made very clear to the Minister for Foreign Affairs exactly what course of action he had open to him. He had several options. They were enumerated at that time. They are worth while looking at again. Firstly, he could have taken the matter to the Australian Federal Police. On the day in question an Australian Federal Police senior officer was waiting in my office to take any documents or any statements the then Leader of the Opposition might have been able to give. The then Leader of the Opposition did not. He could have taken the matter to the joint task force which was investigating this matter. He did not. He could have taken it to the Stewart Royal Commission, as it then stood. He chose not to. There are a number of things he could have done, but which he did not do. Again, the reason for that was that he was not intent on finding out the truth. He was not intent on trying to find the real justice of the matter. All he was intent on doing was to smear some innocent people and to win the Lowe by-election. That is all I have to say. The point is well and truly made. The Prime Minister in his statement previously on the Hope Royal Commission, in referring to the queries which the Leader of the Opposition (Mr Peacock) had raised, demanded an apology. I hope that the Minister for Foreign Affairs will now apologise to the two Ministers he unfairly smeared in this issue.

Mr HAYDEN (Oxley—Minister for Foreign Affairs)—by leave—I am extremely pleased by the findings of the Stewart Royal Commission of Inquiry into the Activities of the Nugan Hand Group, at least insofar as they relate to the Leader of the National Party (Mr Anthony). He is the only person I ever referred to in relation to the matters before Mr Justice Stewart and now before this Parliament. I am pleased very simply that the denials of the then Deputy Prime Minister, now Leader of the National Party, have been endorsed by the Stewart Royal Commission. In turn, that means simply that my acceptance of those denials has been upheld. That I am very pleased about.

My comments will be charitably rather short. They are merely to remind people of the record in the Parliament as distinct from the imagination of the honourable member for Bass (Mr Newman). I am a member of parliament and the forum in which I operate is the Parliament, not royal commissions and not courts. They may be incidental areas in which one finds oneself sometimes, with greater or lesser comfort, in my case never with any discomfort. But I am a parliamentarian and as a parliamentarian the venue in which I operate is

this chamber. Honourable members who have a reliable memory will remember that in the early part of March 1982 rumours were rife about Parliament House that a senior Minister or Ministers had been involved in interference with the proper procedures of investigations and processes related to some vaguely alluded to narcotics matters. They were not comments generated by the then Opposition, now the Government. They were quite declaratory statements which appeared on television and were heard on radio. In all the circumstances, given the seriousness of the allegations, it would have been most extraordinary had an opposition not raised questions in the Parliament.

One must cast one's mind back to that period and recall the rather strange way in which the then Government conducted the affairs of this Parliament. The Parliament is a debating chamber. It is supposed to be a venue where members express points of view, test them, test opposing points of view, test the veracity of comments that come up from time to time, and question the viability or appropriateness of policies—a whole range of these sorts of things. However, in that period we had a government controlled by a Prime Minister who believed that the less that was said in Parliament the better. I suspect that, making a fairly accurate assessment of his own limitations, that was a sensible approach. It was, however, a self-destructive approach for him in terms of his position in this Parliament. There were many instances when matters raised by the then Opposition could have been snuffed as quickly as a click of finger and thumb had a debate been taken on by the horns in the way in which I believe it should be if serious questions affecting government are raised in the Parliament. I repeat: Instead of doing that we found, with the brilliant wisdom that people such as the honourable member for Bass were able to bring to bear on behalf of the then Government—which parenthetically I observe explains why we are here now and members opposite are there now, that is, they listened to much to the wit and wisdom of people such as the honourable member for Bass—that these sorts of things, instead of being concluded promptly, often went on for days on end. I suppose that in a sense that was a splendid opportunity for an opposition to monopolise the limelight. For the Government it was not a very productive situation and a not very helpful situation for the Parliament. Only one group can accept responsibility or culpability for that—the Government of the day.

I come back to March 1982, when the debate on this matter arose. On 11 March 1982, as

reported at page 892 of the parliamentary record, I sought leave to move a motion revolving about certain allegations very seriously and disturbingly made, then very recently, about drug matters, ministerial interference, and so on. I then sought to explain that it was being very widely canvassed in the corridors of Parliament that the Deputy Prime Minister's name had been raised in relation to these matters. It had been raised by the media. It had not been raised by the Opposition. We knew nothing about it until it appeared in the media. We knew nothing about the identity of the alleged Minister until I heard from media people, who quite genuinely presented this matter. I said:

The Minister concerned has been privately identified as the Deputy Prime Minister . . . but in these circumstances—

with all the brilliance that the then Government was able to bring to bear—it really was brilliance for a government in such a commanding position to be able to tear out block after block of its majority in government and put us here and it there—it snuffed out the debate. I was going to say: 'In these circumstances I do not accept those allegations'. I remember it clearly, but I was prevented from saying any more. Then a few minutes later, the record shows, when responding to Mr Speaker as to whether I had put the motion in writing, I said:

Yes, Mr Speaker. The allegations have been made publicly today. We neither endorse them nor—

I was going to say 'accept them', and that in respect of the Deputy Prime Minister I found them incredible. I never got a chance. My contribution to the debate was snuffed out. The problem was generated by the lame-mindedness of certain strategists then with the Government. As I recall, the honourable member for Bass was a leading strategist. He was able to bring to bear all the experience and development that he had been able to establish in his Army career. I recall that when he was in Vietnam he was lost for three weeks when he took a troop out on patrol. He was supposed to be out for only three days. They had to send three troops of soldiers to find him. My brother-in-law was one of them and he said it was a matter of melancholy regret that they discovered him.

Mr Newman—I called him a liar when he said that before and I call him a liar again.

Mr HAYDEN—I can nearly wind up now because I do not like to see the honourable member for Bass in an apoplectic condition. On 11 March 1982, as reported as page 97 of the record of parliamentary debates, I said:

The Deputy Prime Minister did stand up this afternoon and deny the allegations. I accept his denial.

That was my first available opportunity to string more than three words together and, given the opportunity, I killed off the problems the Government had generated by its sheer unexampled stupidity. The honourable member for North Sydney (Mr Spender) said:

But you accepted a denial. Do you accept it or not?

He said that with that sort of chewing gum accent that comes from the north shore of Sydney. I said: 'What?' Well, I have a hearing problem and sometimes, I must confess, it is convenient. The honourable member said: 'His denial'. I said:

Yes. I said that I accepted it.

All of this development in relation to the then Deputy Prime Minister, now Leader of the National Party, was generated by the ingenuity of the then Government and by no one else. On the first opportunity I had I accepted his denial. Had I not been interrupted I would have made the denial for him. I would have made it effectively, and the silly thing would not have got out of hand. For that, the then Government, now Opposition, has so much to thank the honourable member for Bass. We on this side of the House thank him for being here to.

REVIEW OF SPECIAL BROADCASTING SERVICE

Report and Ministerial Statement

Mr DUFFY (Holt—Minister for Communications) (8.30)—For the information of the House I table the review of the program commissioning and purchasing policies of the Special Broadcasting Service and the response of the Special Broadcasting Service.

Motion (by **Mr Beazley**)—by leave—agreed to:

That this House, in accordance with the provisions of the Parliamentary Papers Act 1908, authorises the publication of the Report to the Minister for Communications of the Review of the Program commissioning and purchasing policy of the Special Broadcasting Service and the response of the Special Broadcasting Service.

Mr DUFFY (Holt—Minister for Communications)—by leave—The Special Broadcasting Service—SBS—is a statutory body established under the *Broadcasting and Television Act 1942*, which commenced operations on 1 January 1978. Its charter at that time was to provide multilingual radio services through stations 2EA Sydney and 3EA Melbourne. In January 1980, acting on the recommendations of the Ethnic Television Review panel, the previous

Review of Special Broadca

Government announced the multicultural television service introduced by October 1980. The Government proposed to expand the SBS and Multicultural Broadcasting Commission (IMBC). In February 1980 the Government announced that an IMBC committee had been established to oversee the activities of SBS and the proposed IMBC to create to establish the service.

The Fraser Government to establish the IMBC. The Senate referred the Bill to the Education and the expired. Although the Government announced that the SBS was unable to handle MT, it ran out of steam and no was taken. One can only people from the SBS, the Department who, despite timetable and this legislative shambles, put multicultural time, in October 1980. The normally takes at least English language television with defective legislation muddled directives from SBS nevertheless manages to cast in several languages, but the right on target, one.

However, it is clear which SBS has had to toll. There has not been an attempt to consult with the community generally. SBS, its programming term goals. As a result of ethnic background the Board is not adequate for ethnic communities. tens of millions of dollars of volunteers, and the its staff, the SBS is an

During the recent Australian Labor Party policy statement, multicultural Television broadcasting has been our society. Whether radio, allowing the themselves, or mult us all to understand the richness of the

The Age
P. 3 2 Dec. '83

Nugan allegations

SYDNEY. — Details of financial transactions involving the Nugan Hand Bank and a company owned by the family of the NSW Opposition Leader, Mr Greiner, have been sought in the NSW Parliament.

Mr Richard Face (Labor, Charlestown) asked the Minister representing the Attorney-General, Mr Landa, yesterday about four transactions in 1980 involving a total of \$650,000.

The Corporate Affairs Commission is examining almost 60 questions on notice raised by Mr Face earlier this week relating to the White River Corporation Limited, a company owned by the Greiner family, and its dealings with the Nugan Hand Bank.

7/12
Mr Hanton
Mr Booth
~~Mr Hunt~~
Mr Fitch
Mr Fitch
ATF Nugan file

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PART No.

DEPARTMENT OF THE TREASURY

Div	Brch	TITLE
FID	PST.	E.C. ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP.

Please note: All entries below are to be made by
Information Services Centre staff only.

Y FUNCTION DESCRIPTOR (38)

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MINAL DESCRIPTOR (38)

GENERAL INDEX ☐RESTRICTED INDEX ☐

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OGRAPHICAL DESCRIPTOR (20)

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BJECT DESCRIPTORS (25) (maximum 3)

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